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THE

Rules of Practice

Common-plac'd;

WITH

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THE Rules of Practice Common-plac'd; WITH REMARKS.

In Two Parts.

PART I. Containing
The Method of Proceeding in the Court of King's Bench.

PART II. Containing
The Method of Proceeding in the Court of Common Pleas.

The Whole exhibiting a View of the ancient and modern RULES and ORDERS of the said COURTS, digested in the best Method extant, for the speedy finding out what RULES relate to any Point in PRACTICE.

By an ATTORNEY at Law.

In the SAVOY:
Printed by E. and R. NUTT, and R. GOSLING, (Assigns of *Edw. Sayer*, Esqi) for James Hodges, at the *Looking-Glass* on *London-Bridge*; C. Corbet, at *Addison's Head* against *St. Dunstan's Church, Fleet-street*; J. Millan, near the *Horse Guards, Charing-Cross*. MDCCXL.

THE PREFACE.

THE Books of Rules and Orders hitherto publiſhed, having no other Method obſerved in them than the Order of Time wherein they were made, and each Rule being for the moſt part upon various Subjects, and frequently vacated either in the Whole or in Part by a ſubſequent one; it muſt conſequently be difficult in moſt Caſes to deduce from ſuch Books the preſent Practice conformable to the Rules; to Remedy thoſe Inconveniences the Rules are herein common-plac'd, and the ſub-

Subject Matter of each Title disposed in its natural Order, and some practical Remarks are added; and to avoid Repetitions those Rules or Orders, which are about several Matters are separated, and each Part placed under its proper Title, and References made to such other Places where any Thing relating to that Matter may be found. The Latin Rules are translated by Way of Abstract to make them conformable to those in English, *which for the Conveniences of being Common-placed are likewise abridged, but due Care is taken that nothing but Superfluities are omitted. All which 'tis hoped will render the Whole more compact and serviceable than any Thing of this Kind extant.*

A TABLE OF THE TITLES, where-under the Rules of the *King's Bench* are distributed.

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THE RULES of PRACTICE Common-plac'd.

Ac etiam.

1. NO Attorney ſhall preſume at his Peril, to make, or cauſe to be made, any Precept or Writ, with the Clauſe (a) *Ac etiam*, &c. againſt any Heir, Executor, or Adminiſtrator; or in any Caſe where

King's Bench. Mic. 15 Car. 2.

No *Ac etiam* againſt Heirs, Executors or Adminiſtrators, &c.

(a) The Statute 13 *Car.* 2. *c.* 2. which injoins the Cauſe of Action to be expreſſed in the Writ or Proceſs, which holds the Defendant to Bail, hath ordained the Inſerting this Clauſe in all ſuch Writs or Proceſs.

King's Bench. Mic. 15 *Car.* 2. 1728.

where by the Cuſtom of the Court Special Bail is not required (*b*).

(*b*) Special Bail is not required againſt Peers of this Realm, Ambaſſadors or their Servants, Members of Parliament or their Servants, during the Time of Privilege, Corporations or Companies, or privileged Perſons belonging to the Courts of Juſtice; as Clerks of the Offices and Attornies; neither is it required in Actions on penal Statutes, or Slander, Covenant, Treſpaſs, Battery, Wounding or Impriſonment, unleſs there be an Order of Court for it, or a Warrant under the Hand of one of the Judges of the Court, out of which the Writ Iſſued; nor for any Debt, Aſſumpſit, or otherwiſe in a Superior Court, unleſs the Cauſe of Action is 10*l.* or upwards; and then an Affidavit muſt be made, and filed, and the Sum ſworn to, indorſed on the back of the Writ or Proceſs; for which Sum the Sheriff ſhall take Bail, and for no more. 1 *Lilly* 13. 1 *Inſtr. Cler.* 40. *Stat.* 12 *Geo.* 1. *c.* 29. The King's Servants in Ordinary muſt not be arreſted without Notice firſt given to the Lord Chamberlain. *Vid.* 1 *Lilly's Regiſter*, Tit. *Arreſt*; and ſee Title **Bail** in the Common Pleas.

Hill. 2 *Geo.* 2. 1728.

II. All Clerks and Attornies, that intend to proceed according to the above Rule, (i. e. *A Rule made in the ſame Term for the Time of Pleading, when the Cauſe of Action is ſpecially ſet forth in the Proceſs. Vide* the Rule under Title **Pleas** II.) (*b*) are to take Notice, that in ſuing out ſuch Writs they do not inſert in the **Ac etiam** the whole Declaration at length, but only deſcribe the Cauſe of Action ſhortly, according to the Specimen hereunder ſet forth, varying the ſame as the Nature of the Action ſhall require.

Notice fixt up in the King's Bench Office.

Of Special Proceſs.

(*b*) *Note, By the Stat.* 5 *Geo.* 2. *c.* 27. *No Special Writ or any Proceſs, ſpecially expreſſing the Cauſe of Action, ſhall be ſued forth in a Superiour Court, unleſs the Cauſe of Action amounts to* 10 l. *or upwards; Penalty on Attorney or Officer iſſuing ſuch Special Writs* 10 l. *and Coſts of Suit, and all Proceedings void.*

For Goods Sold.

——Of a Plea of Treſpaſs; and alſo to a Bill of the ſaid *Q.* againſt the aforeſaid

ſaid *D.* for 50 *l.* for divers Goods, Wares and Merchandizes, ſold and delivered to the ſaid *D.* by the aforeſaid *Q.* according to the Cuſtom, &c. *King's Bench. Hill. 2 Geo. 2. 1728.*

——For 50 *l.* as well for divers Goods, Wares and Merchandizes ſold and delivered, as for divers Sums of Money by the ſaid *Q.* for the ſaid *D.* and for his Uſe, and at his Requeſt, laid out and expended. Goods Sold and Money laid out.

——As well for divers Sums of Money to the ſaid *D.* by the aforeſaid *Q.* lent and accommodated; as for divers Sums of Money, by the ſaid *D.* for the ſaid *Q.* and to the Uſe of the ſaid *Q.* had and received. Money lent and received.

——Of a Plea that he render to him 100 *l.* which to him he owes, and from him unjuſtly detains. Debt.

——Of a Plea that he keep to him the Covenant between the aforementioned *Q.* and the aforeſaid *D.* made according to the Form and Effect of a certain Indenture between them made and executed. Covenant.

——For that, That the ſaid *D.* with Force and Arms upon the ſaid *Q.* made an Aſſault, and him beat, wounded and ill treated, to the Damage of the ſaid *Q.* 10 *l.* Aſſault.

Accounting with the Secondary.

Vide Attornies XII.

Actions.

Vide Additions II. Fines I.

King's Bench. Mic. 15 Car. 2.

Additions.

I. THE true Place of Habitation, and the true Addition (*a*) of every Perſon that makes his Affidavit, ſhall be inſerted in ſuch Affidavit.

In Affidavits.

(*a*) A Man may have different Additions at different Times and Places; for ſome Additions, *viz.* of Eſquire, Gentleman, Yeoman, *&c.* are only *Ad libitum*, and as People pleaſe to call them, and may be varied; but the Title of Knight or Baronet, are Part of the Party's Name, and are to be rightly uſed. An *Iriſh* Earl is no Addition of Honour here, but is written by his Chriſtian Name and Surname, with the Addition of Eſquire only. 1 *Lilly* 34.

Same Term.

II. In all Actions of Treſpaſs and other Actions (*b*), *Vi & Armis*, or *Contra pacem*, the true Addition of Degree, Quality or Myſtery (*c*), of the Defendant, ſhall be inſerted in ſuch Actions, at the Peril of the Plaintiff's Attorney (*d*).

In Actions.

(*b*) By Original. 1 *Lilly* 35.

(*c*) And Place of Abode. 1 *Lilly* 35.

(*b*) *Lilly* ſays, that the reaſon of making this Order was this: Before the Act for taking away Fines for Capiaturs, the Clerk of the Crown-Office uſed to take from the Judgment Rolls, all the Judgments which were entred with a Capiatur, and thereupon ſued out Proceſs to Outlawry; and the Addition was to know who the Defendant was, and where he lived. And he ſays, that in every Original Writ in perſonal Actions, Appeals and Indictments, in which Exigent ſhall be awarded, ſuch Additions ſhall be made; And that Proceſs to Outlawry are void without the ſaid Additions.

Adminiſtrators. Vide Ac etiam I.

Admiſſions. Vide Attornies I. to VI. Forma Pauperis I.

Affidavits.

Vide Additions I. Bail XXIII. Returns of Writs I.

I. THE Court having declared, that no Affidavit ſworn before a Commiſſioner in the Country, ought to be, or ſhall be hereafter read in Court before it be filed; and a Copy thereof made, and ſuch Copy read; It is deſired, that all ſuch Affidavits be brought to the Clerk of the Rules, to be filed in ſuch convenient Time, that Copies of them may be duly made, and delivered to the Party affiling the ſame.

Notice fixt up in the King's Bench Office.

Alias. Vide Writs I, V.

Appearances. Vide Bail.

Appointment. Vide Attornies X.

Arreſts.

Vide Ac etiam I. Warrants II, III.

I. IF a Defendant be legally delivered from an Arreſt upon any Proceſs, he ſhall not be arreſted again at the ſame time, by Virtue of another Proceſs at the Suit of the ſame Plaintiff. The Attorney

Mic. 15 Car. 2. Not to be arreſted after being once diſcharged.

King's Bench. or Plaintiff offending, the Attorney to be expelled, and both to be punished as the Court shall think fit.

Attachments. Vide **Motions I. Prisoners VII. Returns of Writs III.**

Attendances. Vide **Attornies IX, X, XI. Sheriffs I.**

Attornies.

Mic. 3 *Annæ*, 1704. *By the* 12 *Judges.*

Of being admitted into the Inns.

N. B. Rules to the same Purpose were made in *Trin.* 29 & *Mic.* 36 *Car.* 2.

I. ALL Attornies of *B. R. C. B.* and *Scac.* at *Westminster*, shall procure themselves to be admitted of some of the Inns of Court or Chancery, and take Chambers there, (if conveniently they may be had,) or else Lodgings in some convenient Place near the said Inns, and leave Notice in Writing with the Butler or Porter of such Inn whereof they are admitted, where their Lodgings or Habitations are; (except Inhabitants or Housekeepers in *London*, *Westminster*, *Southwark*, or the Suburbs thereof, and the Liberty of the Tower of *London*, and St. *Catherine*'s there; and sworn Attornies of any Courts within the said Cities, Towns, and Liberties.

Certificate thereof to be produced when Sworn.

II. And for the future, no Person to be sworn an Attorney, or admitted a Clerk of any of the said Courts or Offices thereto belonging, (except the Persons before excepted,) unless so admitted, and produce

produce at the Time of his being ſworn or admitted as aforeſaid, a Certificate of his Admiſſion under the Hand of the Treaſurer or Principal of the Inn whereof he is admitted, (which they are to give without being paid for the ſame.) By Attornies or Clerks in *B. R.* the Certificate to be delivered to the Secondary; and by Attornies of *C. B.* to the Clerk of the Warrants; and by the Clerks of the ſaid Court to the Prothonotary, in whoſe Office they ſhall be admitted. And by Attornies and Clerks in *Scac.* to the King's Remembrancer, or his Deputy, to be filed by the ſaid reſpective Officers, before the Names of the Attornies be entered on the Roll, or the Clerks admitted as aforeſaid. The Treaſurers and Principals of the Inns may reſort to the files of the ſaid Certificates without paying for the ſame. *King's Bench.*

III. No Attorney or Clerk ſhall put himſelf out of the Society he is firſt admitted into, 'till admitted into another, and has delivered a Certificate of the Treaſurer or Principal of the other Society to the Treaſurer or Principal of the Society he was firſt of. Not to leave one Inn till admitted of another.

IV. And the Attornies or Clerks ſo admitted, ſhall be in Commons according to the Orders of ſuch Society whereof they are admitted. Any Attorney offending againſt this Rule to be put out of the Roll, and Clerks diſcharged from their Offices, if they ſo offend. And the Secondary of *B. R.* and the reſpective Prothonotaries To be in Commons.

King's Bench.

notaries, and Clerk of the Warrants of *C. B.* and the King's Remembrancer, or his Deputy of *Scac.* and all Officers whom it may concern, are required to give Obedience to this Order, and ſee that the ſame (as to themſelves) be duly obſerved.

Liſts to be given of ſuch as are not admitted.

V. The reſpective Treaſurers and Principals of the Inns of Chancery, and the Antients, Rulers, and Governors of the ſame, ſhall procure a Liſt of ſuch Attornies and Clerks, as are not ſo admitted; which Liſt they ſhall yearly in *Michaelmas-Term* deliver to the Chief Juſtices and Chief Baron, that the Offenders againſt this Order may be compelled to obey the ſame.

Alſo of irregular Practicers.

VI. Alſo the ſaid Treaſurers, Principals, Antients, Rulers and Governors, ſhall procure a Liſt of ſuch as practice as Attornies or Clerks, in any of the ſaid Courts, who are neither ſworn Attornies, or admitted, entred or ſeated Clerks in any of the Offices of the ſaid Courts; which Liſt is to be delivered in as aforeſaid, that ſuch Offenders may be proceeded againſt in ſuch manner as ſhall be thought fit (*a*).

(*a*) *Lilly* ſays, that ſince the making this Rule, ſeveral Attornies and Clerks have been ſerved with it; and upon Affidavit of Service, and Motion for an Attachment, the Courts have appointed them to ſhew Cauſe why they have not obeyed the Rule; and upon their being admitted into ſome of the Inns, and paying 1 *l.* 6 *s.* and 8 *d.* for Charges of the Rule, and ſerving it, Proceedings have been ſtaid; but if they did not appear in Court, or ſhew good Cauſe, or be admitted; the Courts have granted an Attachment, and then they pay 40 *s.* for the Charges of the Attachment and Proceedings thereupon.

VII. Attornies

VII. Attornies to appear in Court, &c. But more fully directed by the next Rule.

King's Bench. Hill. 21 *Car.* 1.

VIII. Attornies ſhall appear in Court in Perſon (*a*), on or before the 14th Day of *Michaelmas-Term*, and on or before the 7th Day of every other Term, or forfeit for the Firſt Default 10 *s.* and for the Second 20 *s.*

To appear in Court.

Trin. 14 *Ca.* 2.

(*a*) An Attorney abſenting himſelf from the Court a whole Year together loſes his Privilege.

1 *Lilly* 142.

IX. Clerks and Attornies ſhall attend the Court on Notice given them of Motion, or forfeit 10 *s.*

Eaſter 1656. *Paſ.* 14 *Car.* 2. To attend on Motions.

X. No Attorney or other Perſon ſhall be ſummoned to attend a Judge, nor any Matters be tranſacted before him at Chambers, or elſewhere out of Court, during the Sitting of the Court at *Weſtminſter*; and all Orders and other Tranſactions ſo made ſhall be vacated. See Title **Rules.**

Mic. 11 *G.* 1. 1724. Of his Attendance on Summons.

XI. Every Attorney of this Court ſhall Perſonally attend the Maſter at the Time by him prefixed (on having Notice thereof) to examine Cauſes referred to him (*b*) or forfeit 10 *s.*

Hill. 15 *Car.* 2. To attend the Maſter.

(*b*) Likewiſe to attend on ſtriking Special Juries. Vide **Jury.**

XII. *Rules were made in theſe Terms, concerning Clerks accounting with the Secondary, but ſeeming to be of no uſe, as the Entries are now paid for, on ſigning Judgments or paſſing Records, I have omitted them.*

Paſ. 15 *Car.* 2. *Hill.* 15 & 16 *Car.* 2. *Trin.* 20 *Car.* 2. Accounting with the Secondary.

XIII. Every

King's Bench. Paſ. 19 *Car.* 2. The like in *Mic.* 15th of the ſame King.

Attornies to pay 2 *s.* a Term to the Clerk of the Declarations.

XIII. Every Clerk, Philazer, and Attorney of this Court, ſhall pay to the Officer of this Court, appointed for receiving, filing and keeping Bills, and Declarations filed here in Court, the antient Fee of 2 *s.* at the End of every Term for his Salary; and any of them refuſing, upon reaſonable Requeſt, to be ſuſpended from the Privilege of practiſing in the ſaid Court, at the Direction of the chief Clerk or Secondary.

Audita Querela.

Trin. 9 *Jac.* 1. Allowing Writ, and taking Bail.

I. NO Writ of *Audita Querela* ſhall be allowed, or Bail thereupon taken, unleſs in Court upon Motion firſt made, and a Rule thereupon entred.

Bail.

Vide Audita Querela I. Ejectment I. Error IV to VII. Escape, in the Notes. Habeas Corpus III to VIII. Original III. Prisoners IX, XI.

Common Bail on Cepi Corpus.

I. ATtornies, *&c.* within ten Days after the End of every Term are to deliver to the Secondary a Note of all Appearances made to them the Term before, and by whom made; so that the Clerk of the Common Bails may see if Bail be filed for every such Appearance.

A Note of Appearances to be delivered to the Secondary. *This is not usual now.*

II. Every Attorney who *appeared* for any Defendant, *was* to file Common Bail within six Days after the End of the Term whereof he *appeared. But now when the Defendant is personally served with a Copy of Process, he is to appear, or file Common Bail within eight Days after the Return of the Process, or the Plaintiff may file it for him.* Vide postea VI.

Mic. 16 *Car.* 2. In what time Common Bail is to be filed.

III. Upon every Judgment confessed by Warrant of Attorney, Bail for the Defendant shall be filed to Warrant the Judgment; or the Attorney who ought to file it shall forfeit 10*s.* for every such Bail-piece not affiled; and for every other such Common

Hill. 1 *W. & M.* Bail to be filed to warrant Judgment by Warrant of Attorney.

King's Bench. Common Bail which ought to be affiled 10 *s.* and puniſhed as the Court ſhall think fit.

Penalty for not filing Bails.

Trin. 4 *W.* & *M.* Voluntary Appearance.

IV. If any Defendant voluntarily appears, at the Suit of any Plaintiff, in any Action, ſuch Appearance ſhall be of no Effect, except the Attorney for the Plaintiff, within fourteen Days after, ſues out a *Latitat* or Bill of *Middleſex*.

Trin. 4 *W.* & *M.* Of paying for filing Common Bail.

V. The Defendant's Attorney *was* to pay to the Plaintiff's Attorney 1 *s.* and 6 *d.* for Common Bail, upon joining every Iſſue, unleſs he made it appear that it *was* affiled; and the Plaintiff's Attorney *was* to pay it to the Secondary. And upon Signing Judgment by Default, or *Non Informatus*, the Plaintiff's Attorney *was* to pay to the Secondary 1 *s.* and 6 *d.* for Common Bail, if not filed; and that 1 *s.* and 6 *d.* *was* to be allowed in Coſts. *But now the Plaintiff's Attorney always charges* 6 s. *and* 8 d. *for filing the Common Bail, on the back of the Declaration, which the Defendant's Attorney muſt pay, on the Delivery of it; or if filed, when he takes it out of the Office.*

Mic. 10 *Geo.* 2. 1736. Of filing Common Bail according to the Statute.

VI. For the better diſtinguiſhing by whom Common Bail ſhall have been filed; when filed by the Plaintiff (*a*) for the De-

(*a*) By the Statute 12 *Geo.* 1. *c.* 29. where a Copy of the Proceſs is ſerved, and the Defendant does not appear, or file Common Bail in four Days, (but now by the Statute 5 *Geo.* 2. *c.* 27. in eight Days) after the Return of the Proceſs, the Plaintiff, upon filing an Affidavit of ſuch Service, may file Common Bail for the Defendant, and proceed thereon, as if the Defendant had filed Common Bail for himſelf.

fendant

fendant, purſuant to the Statute, theſe or the like Words ſhall be written on the Bail-piece, *viz.* **Filed according to the Statute.** *King's Bench.*

Special Bail on Cepi Corpus *taken before a Judge.*

VII. No Attorney *was* to put in Bail till he *had* given Notice thereof to the Plantiff's Attorney, upon Pain of Expulſion. *Notice is now given after Bail put in,* ut poſtea XIII. *Mic.* 7 *Jac.* 1. Notice of putting in Bail.

VIII. Every Attorney, who puts in Special Bail before a Judge, *de bene eſſe*, on a *Cepi Corpus*, ſhall give Notice thereof without Delay to the Plaintiff or his Attorney. *Mic.* 16 *Car.* 2.

IX. In *Hill.* and *Trin.* Defendant *was* to put in Special Bail before the Continuance Day, by the Secondary appointed, after the End of theſe Terms; and in *Michaelmas* and *Eaſter*, if arreſted by Proceſs in *London* or *Middleſex*, the Defendant *was* to put in Bail within eight Days after the Return; and in any other County, within fourteen Days. *But this Practice is altered as follows.* *Paſ.* 11 *W.* 3. Time of putting in Bail.

X. Where the Defendant is arreſted in *London* or *Middleſex*, and ſhall give a Bond for his Appearance, the Defendant hath Leave for four Days after the Return of the Proceſs (*a*) to put in Bail (*b*). And *Mic.* 8 *Anne.* In *London* and *Middleſex*. In other Counties.

(*a*) Excluſive of the Appearance Days. (*b*) Or the Bail-Bond may be aſſigned, if it is put in before Commiſſioners. Vide poſtea XXIV. for the Time of Tranſmitting it.

King's Bench. when arreſted in any other County, ſix Days.

Trin. 22 *Car.* 2. *Note,* 'Tis ſaid this does not appear enter'd amongſt the Rules of this Term.

XI. No Defendant arreſted by Proceſs of this Court ſhall be compelled to put in Bail for a greater Sum, than in the Proceſs; and if the Plaintiff *declared* for more, the Bail *ſhould* not be liable. *But by the next Rule,*

What Sum Bail ſhall be put in for.

Eaſter 5 *Geo.* 2. And for how much the Bail are liable.

XII. Where the Plaintiff declares for, or recovers a greater Sum than is expreſſed in the Proceſs, the Bail ſhall not be diſcharged, but be liable for ſo much as is Sworn to, and indorſed on the Proceſs, or for any leſs Sum, which the Plaintiff ſhall recover; any Rule of this Court to the contrary notwithſtanding.

Mic. 21 *Car.* 1. Notice of putting in Bail.

XIII. The Attorney for the Plaintiff upon Notice of putting in Bail, *was* to attend before any Judge of this Court to accept or except againſt ſuch Bail, upon Pain of being put out of the Roll. *But now 'tis Cuſtomary, when Special Bail is put in, to give Notice thereof to the Plaintiff's Attorney, mentioning before what Judge, and the Names and Additions of the Bail, that the Plaintiff may inquire after the Sufficiency of them.*

Paſ. 29 *Car.* 2. Fees for Filing.

XIV. Attornies, at the Time of putting in Bail, ſhall depoſit in the Judge's Clerks Hands the Fees for Filing, upon a *Cepi Corpus* 2 *s.* and 6 *d.* and the ſaid Clerk ſhall deliver a Note to the Secondary within ſix Days after the End of Term, of the

the Bails put in of the preceding Term and Vacation, with the Attornies Names, and pay him the ſaid Fees. *King's Bench.*

XV. All Attornies, *&c.* who put in Special Bails for Defendants *were* to affile them immediately after accepted. *This ſeems to relate as well to Bail taken before a Commiſſioner as a Judge; and afterwards ordered that,* *Hill* 23 *Car.* 1. The Time of filing Bail-piece. When accepted.

XVI. Special Bails taken and allowed before a Judge, *were* to be filed in the Office of the Term they *were* taken. *But by the next, being the lateſt Rule,* *Hill.* 1650.

XVII. Attornies who put in Bail by Recognizance before a Judge, if the Plaintiff accepts it, to file the ſaid Bail within twenty Days after ſuch Acception, under the Penalty of 40 *s.* *Trin.* 13 *Car.* 2.

XVIII. If the Plaintiff does not except againſt Bail (*a*) (put in before a Judge *de bene eſſe* on *Cepi Corpus*) within twenty Days after Notice of its being put in, then upon Affidavit of the Notice, indorſed on the Back of the Bail-piece, (for which Oath no Fee ſhall be taken) the Bail to be affiled by the Defendant's Attorney, within four Days after the End of the aforeſaid twenty Days. *And likewiſe by the next (a Modern) Rule,* *Mic.* 16 *Car.* 2. Excepting againſt Bail put in before a Judge. Time of Filing is when not excepted againſt.

(*a*) This Exception is made in the Bail-Book at the Judge's Chambers; and Notice of ſuch Exception muſt be given to the Defendant's Attorney.

XIX. No Exception to Special Bail put in before a Judge of this Court, ſhall be made after twenty Days from Notice given of *Mic.* 8 *Anne.* When Exception is void.

King's Bench.

of ſuch Bail being put in, according to the Cuſtom of this Court; and an Exception after that Time ſhall be void, (*unleſs the Declaration be delivered* De bene eſſe *till Bail is perfected, and then you mark it ſo on the Back*). *Note; After the Declaration is delivered, Bail cannot be excepted againſt; for, by declaring, the Plaintiff admits the Bail to be ſufficient.*

Eaſter 5 *Geo.* 2. 1732. Juſtifying or adding new Bail: Vide Poſtea XXVI.

XX. In every Action where Special Bail is put in and excepted againſt, and Notice of Exception is given in Writing to the Defendant's Attorney, the Defendant ſhall procure his Bail to juſtify (*a*), if the Notice be given in Term-Time, in four Days after Notice, or ſhall add other Bail, who ſhall juſtify within the ſaid four Days; but if ſuch Exception be taken, and Notice thereof given in the Vacation, the Bail put in, or other additional Bail, ſhall juſtify upon the firſt Day of the ſubſequent Term.

(*a*) If Bail be put in before a Judge, they muſt juſtify themſelves in Court, for a Juſtification at a Judge's Chambers is not good, except by Conſent of the Plaintiff's Attorney. But otherwiſe if taken before Commiſſioners in the Country. Vide poſtea XXVI. and if the Defendant does not attend with his Bail, they muſt Swear they are worth double the Sum indorſed on the Writ.

Of Filing Bail. Vide antea from XIV. to XVIII.

Of

King's Bench.

Of Special Bail taken before Commissioners in the Country (a).

(a) For the Time of putting in Bail, vide antea X. 2. If the Date is not *Trin.* 4 *W.* & *M.*

XXI. *First*, The Bail-piece shall be fairly ingrossed on Parchment in the Form following.

Form of Special Bail-piece.

Middlesex, ss. *John Doe* of *Islington* in the County aforesaid, *Gent.* is delivered to Bail upon a *Cepi Corpus*, to

John Denn of *Hackney* in the County aforesaid, *Gent.*

and

A. B. Attorney for the Defendant.

Richard Fenn of *Highgate* in the County aforesaid, *Gent.*

At the Suit of *Richard Roe.*

Taken and acknowledged the Day of 17 before *A. B.* one of the Commissioners, &c.

XXII. And in taking of the Recognizance these Words must be used.

Manner of taking the Recognizance.

" You (*calling the Bail by their Names*) " do jointly and severally undertake, that " if the Defendant, (*naming his Name*) " shall be condemned in this Action, at " the Suit of the Plaintiff (*naming his* " *Name*) he shall satisfy the Costs and " Condemnation, or render himself into

King's Bench. "the Cuſtody of the Marſhal of the *Mar-*
"*ſhalſea* of the Court of (King's Bench)
"or you will pay the Coſts and Condem-
"nation for him."

Affidavit of taking it.

XXIII. *Secondly*, Affidavit of the due taking ſuch Bail ſhall be made either before ſome Judge of *B. R.* to whom the Bail ſhall be tranſmitted, or before ſome Perſon who hath power to take Affidavits in Matters and Cauſes depending in the ſaid Court (*a*).

(*a*) If Sworn before a Commiſſioner, it muſt be drawn in Form and annexed to the Bail-piece, to be filed together.

Tranſmitting Bail.

XXIV. *Thirdly*, All Bails taken before any Commiſſioner within the Diſtance of forty Miles (*b*) from *London* and *Weſtminſter* ſhall be tranſmitted to one of the Juſtices of this Court, within eight Days after the taking thereof; and above the Diſtance of forty Miles (*c*) ſhall be tranſmitted within fifteen Days after the taking thereof, unleſs all the ſaid Juſtices ſhall be in their Circuits, and then as ſoon as any one of them ſhall be return'd to his Chambers.

(*b*) When taken within forty Miles, and not in *London* or *Middleſex*. Six Days to take Bail in excluſive of the Appearance Day. Vide X. Eight to Tranſmit it after put in. Fourteen the Extent of the Defendant's limited Time. (*c*) The like when above forty Miles. Six to take it; Fifteen to tranſmit it, In all Twenty-one; which Times are to be obſerved by the Defendant or the Bail-Bond may be aſſigned.

Commiſſioner's Book.

XXV. *Fourthly*, Every Commiſſioner is to keep a Book to enter in the Names of the Defendant and his Bail, and the Plaintiff, as it is in the Bail-piece, and the Time

Time of taking thereof, and the Name of him by whom ſuch Bail ſhall be tranſmitted, and alſo the Name of the Attorney for the Defendant. *King's Bench.*

XXVI. *Fifthly*, The Plaintiff's Attorney ſhall be at liberty to repair to the Commiſſioner's Book for the Names of the Bail, that he may inquire of their ſufficiency, and if inſufficient, he may except againſt them within twenty Days after the Bail is tranſmitted, and Notice to the Plaintiff, or his Attorney, of the taking thereof: And in that Caſe the Defendant muſt either put in better Bail, or the Cognizors muſt juſtify themſelves (*a*) in Court, either by Affidavit taken before ſuch Commiſſioners that took the Bail (*b*), or by Oath in Court, or before one of the Judges of the ſaid Court.

Excepting againſt Bail.

Juſtifying Bail.

(*a*) For the Time of Juſtifying, vide antea XX. And of filing Bail, vide antea from XV to XVIII. (*b*) The Affidavit muſt ſet forth that they are Houſekeepers, and that they are reſpectively worth ſo much, mentioning the Sum they are Bail for, after all their Debts are paid, or excluſive of all Debts or Demands due from them to any Perſon or Perſons whatſoever. Vide antea XX. in the Notes.

Of Surrendring Defendant in Diſcharge of his Bail.

XXVII. If any Perſon or Perſons, being Bail in this Court for any Defendant in any Action whatever, be impleaded by Action of Debt upon their Recognizance, ſuch Perſon or Perſons ſhall have leave to render ſuch Defendant into the Cuſtody of the Marſhal of this Court in Diſcharge

Trin. 1 *Annæ*, 1702. Time of rendering Defendant when ſued on Recognizance.

King's Bench.

of his Bail, by the ſpace of eight whole Days next after the Return of the *Latitat* or other Proceſs againſt ſuch Bail (*a*). And upon Notice thereof given to the Plaintiff, or his Attorney, all further Proceedings againſt ſuch Bail ſhall ſtay.

(*a*) When impleaded on *Sci. Fa.* the Bail may bring in the Body of the Defendant at any time before the Return of the *Alias Sci. Fac.* and render him in their Diſcharge, for till then the Bail has not forfeited their Recognizance. *Note*; The Bail may take the Principal on a Sunday and confine him till Monday, and then Surrender him in their Diſcharge.

The ſame Term. Notice of it.

XXVIII. Where any Defendant in any Action here depending ſhall be rendred into the Cuſtody of the Marſhal, in Diſcharge of his Bail, the Defendant's Attorney ſhall forthwith give Notice of it to the Plaintiff's Attorney, and make Affidavit thereof before Bail in that Action ſhall be affiled or diſcharged, and in Default thereof ſuch rendering ſhall be void.

Trin. 3 Annæ 1704. per Cur. How the *Reddidit ſe* is to be left, and a Copy delivered.

XXIX. Where any Perſon ſhall render himſelf here in Court, or before one of the Juſtices of this Court, in Diſcharge of his Bail, ſuch *Reddidit ſe* ſhall be left with the Secondary or Clerk of the Judge before whom ſuch Perſon was rendred, to be affiled; and a Copy or Note thereof under the Hand of ſuch Judge or Secondary ſhall be delivered to the Marſhal at the time of Commitment, and ſuch Copy or Note ſhall be made by the Perſon ſo rendred or his Attorney. *When ſurrendred, get a Certificate from the Priſon that the Defendant is in Cuſtody, and thereupon the Maſter*

Maſter will diſcharge the Bail-piece, or till that is diſcharged the Bail are liable. Vide *the Notes Title* Eſcape. King's Bench.

Bailiff. Vide Warrants II.

Bill of Middleſex. Vide Bail IV. Ejectment I, II.

Bringing in the Body. Vide Returns of Writs III.

Ca. Sa. Vide Writs.

Carts.

I. CArts and Drays ſhall not paſs in *King-Street Weſtminſter*, between eight and ten o'Clock in Term-time. *Hill.* 3 & 4 *Jac.* 2.

Cepi Corpus. Vide Bail.

Certiorari.

I. NO Writ of *Certiorari*, on any Writ of Error, ſhall be proſecuted or made by any Clerk or Attorney, after any *Certiorari* in the ſame Cauſe firſt proſecuted and returned, without Motion by Counſel in Court. *Paſ.* 11 *Car.* 1.

Clerks. Vide Attornies.

Clerks of the Declarations. Vide Attornies XIII.

Clerk of the Errors. Vide Error III.

Clerk of the Papers. Vide Paper Books, Pleas VI, VII.

Clerk of the Posteas. Vide Posteas II.

Clerk of the Treasury. Vide Error III.

Commissioners. Vide Bail XXV.

Commitments. Vide Habeas Corpus I, II.

Counsel. Vide Pleas VII.

Custos Brevium. Vide Records I to III.

Declarations.

Vide Attornies XIII. Bail XI, XII. Ejectment I to III. Escape I. Original IV. Pleas III. Prisoners I to VII, and XI.

I. NO Clerk, Philazer, or Attorney shall deliver any Declaration of this Court to any other Person but to the Clerks Philazers and Attornies of this Court, upon Pain of forfeiting for the first offence 10 *s.* and for every other 20 *s.*

Easter 1657. Of delivering Declarations when Defendant appears.

II. Upon the Appearance of any Attorney for any Defendant, the Plaintiff's Attorney shall not be bound to deliver to the Defendant's Attorney the original Declaration; but instead thereof, shall deliver a true Copy, and upon the Delivery or Tender thereof, the Defendant's Attorney, or other Person acting for him, shall pay to the Plaintiff's Attorney, or other Person acting for him, for such Copy after the Rate of 4 *d. per* Sheet Copywise, and for the Stamps thereon (*a*), And on Refusal to pay for the same, the Plaintiff's Attorney may leave it in the Office with the Clerk of the Declarations (*b*) who shall receive the same without Fee or Reward, and thereupon the Plaintiff's Attorney, giving a Rule to plead may for want of a Plea sign Judgment, and before any Plea shall be received

Trin. 12 *W.* 3. 1700. Of Paying for Declaration on Delivery thereof.

(*a*) Vide Warrants I.

Or it may be left in the Office.

(*b*) And give Notice thereof; *vide* the next Rule.

King's Bench.

ceived the Defendant's Attorney shall pay for a Copy of such Declaration (*c*) and the Stamps as aforesaid, or the Plaintiff's Attorney may sign Judgment, as if no Plea had been pleaded.

(*c*) This shews that Judgment may be signed for Want of Taking the Declaration out of the Office.

Trin. 2 *Geo.* 2. 1729.

On Refusal to pay for Declaration it may be filed, and then Notice must be given.

III. In all Causes where Common or Special Bail shall be filed, and Notice thereof given to the Plaintiff's Attorney, a Copy of the Declaration shall be delivered to the Defendant's Attorney, who shall pay for the same according to the usual Rate; but if the Defendant's Attorney, or his Clerk in his Absence, refuse to pay for such Copy of the Declaration, or if the Place of Abode of the Defendant's Attorney be unknown to the Plaintiff's Attorney, then he may leave such Copy with the Clerk of the Declarations, and forthwith give Notice thereof to the Defendant or his Attorney, (*d*) and such Declaration shall be deemed well delivered from the Time of such Notice only.

(*d*) Vide postea V. for the Form of the Notice.

Mic. 10 *Geo.* 2. 1736.

Of delivering Declarations *de bene esse*.

When the Action is not bailable.

* 12 *Geo.* 2. *c.* 29.

IV. Upon all Process of this Court, returnable the first or second Return of any Term, where no Affidavit is filed of the Cause of Action pursuant to the Statute *; the Plaintiff may deliver the Declaration *de bene esse* at the Return of such Process, with Notice to plead in eight Days after the Delivery thereof; and if the Defendant doth not file com-

mon

mon Bail, and plead within the ſaid eight Days, the Plaintiff having filed common Bail for ſuch Defendant purſuant to the ſaid Statute, may ſign Judgment for Want of a Plea, a Rule to plead being duly entred; And upon all Proceſs returnable as aforeſaid, where ſuch Affidavit is filed, the Declaration may be delivered *de bene eſſe* at the Return of ſuch Proceſs, with Notice to plead in four Days after ſuch Delivery, if the Action be laid in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*; and in eight Days, if the Action is laid in any other County, or the Defendant lives above twenty Miles from *London*; and if the Defendant puts in Bail, and doth not plead within ſuch Time as is reſpectively before-mentioned, Judgment may be ſigned, a Rule being duly entred.

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Where the Action is bailable.

V. In all Cauſes where a Copy of the Proceſs is ſerved upon any Defendant or Defendants, and an Appearance is entred, or common Bail filed, for ſuch Defendant or Defendants by the Plaintiff's Attorney, the Plaintiff's Attorney in ſuch Caſe ſhall leave a Copy of the Declaration in the Office with the proper Officer, and give Notice thereof to the Defendant or Defendants, by delivering an *Engliſh* Notice written in Secretary Hand, to ſuch Defendant or Defendants, or by leaving the ſame at their laſt or moſt uſual Place of Abode, in which Notice ſhall be likewiſe expreſſed

Trin. 1 *Geo.* 2. 1727. Of filing Declaration when the Plaintiff files Bail; *per Stat.* 12 *Geo.* 1. *c.* 29.

Notice of Declaration filed.

King's Bench.

expreſſed the Nature of the Action, and at whoſe Suit proſecuted, and the Time limited by the Rules of this Court for ſuch Defendant or Defendants to plead to ſuch Action: And in Caſe ſuch Defendant or Defendants do not plead to ſuch Declaration by ſuch limited Time, Judgment will be entered againſt ſuch Defendant or Defendants by Default: And from the Time of giving ſuch Notice, ſuch Declaration ſhall be deemed well delivered; and if ſuch Defendant or Defendants after ſuch Notice do not plead by the Time the Rules for Pleading are out, the Plaintiff may ſign Judgment without further calling for a Plea, and thereon give Notice of executing a Writ of Inquiry, either by Delivering a Notice in Writing to the Defendant or Defendants, or leaving it at their laſt or moſt uſual Place of Abode.

Declaration well delivered from ſuch Notice. Vide III.

Stat. 12 *Geo.* 2. 1736. Of declaring by the Bye. When Plaintiff files Bail *per Stat.*

VI. Where the Plaintiff in any Action files common Bail for the Defendant purſuant to the Statute, the Plaintiff may deliver a Declaration by the Bye againſt ſuch Defendant in like Manner as might have been done by the antient Courſe of this Court, (*e*) but that no Perſon except ſuch

(*e*) If one be in the Cuſtody of the Marſhal of this Court, at the Suit of *J. S.* or have put in common Bail in this Court to the Action of *J. S.* any other Perſon may put in a Declaration againſt him the ſame Term he was committed in Cuſtody, or did put in Bail as aforeſaid. *Note*; In Caſe of common Bail filed, the Declaration muſt be filed, *ſedente Curia*. 21 *Car. B. R.* For his being in Cuſtody, or his putting in Bail, do ſuppoſe him always preſent in Court to anſwer any Perſon, ſo that it is needleſs to take

such Plaintiff is or ſhall be capable of delivering a Declaration by the Bye, againſt any Defendant, by Reaſon of common Bail being ſo as aforeſaid filed.

King's Bench.

take out any further Proceſs to bring him in to Anſwer; but upon ſuch a Declaration given to him he muſt plead at his Peril; and ſuch Declaration is good, altho' the Defendant be illegally in Cuſtody.— *Lilly's Abr.* Tit. *Declarations.*

Note; If Declaration be not delivered or filed either of the Term the Proceſs is returnable, or before the End of the following Term, Non pros' *may be ſigned. No Rule is given to declare.*

Time of Filing Declaration, or *Non pros'* may be ſigned.

Deeds.

I. ALL Deeds acknowledged in Court ſhall be inrolled amongſt the Rolls of the Chief Clerk. And every Perſon that ſhall acknowledge any Deeds or Indentures in Court to be inrolled, ſhall acknowledge them in open Court; and every Deed acknowledged before any Juſtice out of Court, ſhall be brought here in Court by the Hand of the ſaid Juſtice to be inrolled.

Hill. 11 *W.* 3.

Demurrer.

Demurrer.

Vide Paper Books. Rolls.

Trin. 12 *W.* 3. 1700. Of Paying for Demurrers.

I. UPON Pleading any general Demurrer to any Declaration before any ſpecial Demurrer, the Plaintiff's Attorney ſhall and may deliver unto the Defendant's Attorney a Copy of ſuch Demurrer, who ſhall pay for the ſame after the Rate of 4 *d. per* Sheet Copy-wiſe, and alſo for the Stamps thereon; and in Caſe the Defendant's Attorney ſhall not pay for a Copy of ſuch Demurrer, and the Duty aforeſaid, the Plaintiff's Attorney may ſign Judgment as if there had been no ſuch Demurrer.

Paſ. 18 *Car.* 2. Signing them by Counſel.

II. No Demurrer ſhall be received by the Clerk of the Papers before it be ſigned by Counſel.

Paſ. 11 *W.* 3. Entring them on Record.

III. If any Defendant demurs to any Plea, Rejoinder or Rebutter by any Defendant, and ſuch Defendant joins in Demurrer, then the Plaintiff's Attorney ſhall enter of Record ſuch Demurrer; and in Default thereof, upon a Rule by the Secondary given for entring ſuch Demurrer, the Attorney for the Defendant ſhall enter it on Record.

Hill. 1657. Delivering Copies to the Judges.

IV. None to deliver Copies of Special Verdicts or Demurrers to the Juſtices of this Court, but the Clerks of the Office, who are to Copy and deliver them, and

to

to examine them, and to be anſwerable for any Miſtake in the ſame. *King's Bench.*

Diſtringas Juratoꝛ'.

Vide Trials.

I. ATTORNIES to deliver unto the Sheriffs of all Counties within forty Miles of *London*, all old *Diſtringas's* within eight Days after the End of *Hillary* and *Trinity* Terms, or they ſhall not be received: And all Sheriffs ſhall cauſe ſufficient Summons to be given unto all Jurymen, in theſe old *Diſtringas's*, a Week before the Aſſizes at leaſt. *Eaſter* 1651. Time of Delivering old *Diſtringas's* to the Sheriff. And of Summoning the Jury.

II. No *Alias* or *Pluries Diſtringas Jur'*, with Tales for Trial at Bar, ſhall iſſue, before the former *Diſtringas* with a Panel of the Names of the Jury annexed is delivered to the Secondary, to the Intent that the Iſſues forfeited by the Jury for their not appearing upon the preceding Writ may be eſtreated. *Hill.* 15 *Car.* 2.

Docquets. Vide Judgments III.

Ejectment.

Ejectment.

Trin. 14 *Car.* 2. Of Suing out Proceſs and filing Bail.

I. IN Ejectment if the Lands lie in *Middleſex*, a Bill of *Middleſex* ſhall be ſued out, and if out of *Middleſex* a *Latitat* againſt the caſual Ejector; and common Bail for ſuch Defendant ſhall be filed (*a*) before a Declaration by Bill be delivered to the Tenant in Poſſeſſion; and in Default thereof Judgment ſhall be ſigned againſt the caſual Ejector, or Tenant in Poſſeſſion.

(*a*) Before Judgment ſigned, by the next Rule which is of later Date.

Mic. 33 *Car.* 2.

II. All Attornies that deliver any Declaration in Ejectment ſhall ſue out a *Latitat* * againſt the caſual Ejector, and file common Bail before Judgment be ſigned againſt him.

* Or Bill of *Middleſex*, I ſuppoſe, as in the laſt Rule.

Trin. 15 *Car.* 2. *Lilly* ſays, 16 *Car.* 2. When the Tenant is to deliver a Note of the Parcels.

III. In Ejectment where by Rule of Court the Defendant confeſſes Leaſe, Entry, and Ouſter, for ſo much of the Premiſſes in the Declaration mentioned as are in the Poſſeſſion of the ſaid Defendant or his Undertenants; the Attorney for the Defendant ſhall immediately deliver to the Plaintiff's Attorney a Note in Writing of the Tenements ſo being in the Poſſeſſion of the ſaid Defendant or his Undertenants.

Trin. 18 *Car.* 2. Rule to plead.

IV. A general Rule to anſwer ſhall be given with the Clerk of the Rules in every Ejectment, before any Motion ſhall be made againſt the caſual Ejector.

V. After the ordinary Rule to anſwer in Ejectment, Judgment may be given and entred for the Plaintiff againſt the Defendant for Want of an Anſwer, as in other Actions, without ſpecial Motion.

King's Bench.
Hill. 1649. Of Signing Judgment.

Entries. Vide **Deeds. Rolls.**

Error. Vide **Certiorari I. Paper Books. Palace Court I.**

Error.

I. WRITS of Error upon Judgments in this Court, returnable in the Exchequer-Chamber, *were* to be allowed with the Clerk of the Errors, within four Days after Notice given to the Plaintiff's Attorney. *But by the following Rule,*

Paſ. 16 *Car.* 2. Of allowing Writs of Error.

II. All Writs of Error returnable before the Juſtices of *C. B.* and Barons *de Scaccario*, ſhall forthwith be delivered to the Clerk of the Errors, and no Execution ſhall be ſtaid until ſuch Writ of Error be ſo delivered.

Paſ. 36 *Car.* 2.

III. If the Clerk of the Errors refuſes to receive any Writ of Error, and do what belongs to his Office thereon, the Clerk of the Treaſury may do it for him.

Trin. 20 *Car.* 1. Refuſal to receive it.

IV. Special Bail (when required) *was* to be taken within four Days after, allowing a Writ of Error, or in Default thereof,

Paſ. 16 *Car.* 2. Of taking Bail.

King's Bench.

thereof, Execution *was* to be made. *But afterwards ordered that,*

Paſ. 36 *Car.* 2. V. The Plaintiff in Error ſhall put in Bail within four Days after the Delivery of the Writ to the Clerk of the Errors, or the Defendant may proceed to Execution.

Mic. 5 *W. & M.* Notice of Bail put in. VI. Every Attorney who ſhall proſecute any Writ of Error to revoke any Judgment in this Court obtained, wherein ſpecial Bail ought to be put in, after putting in ſuch Bail, ſhall give Notice thereof without Delay to the Defendant in Error, or to his Attorney.

Same Rule Excepting againſt Bail. VII. And if the ſaid Defendant does not except againſt ſuch Bail within twenty Days after ſuch Notice, the Bail ſhall be allowed.

Paſ. 33 *Car.* 2. Delivering Copies to the Judges. VIII. No Copies of Error and Records thereupon ſhall be delivered to the Juſtices of *C. B.* and Barons *de Scaccario*, before the Attorney for the Plaintiff in Error ſhall give ten Days Notice thereof to the Clerk of the Errors in *Scaccario*; and the Plaintiff's Attorney ſhall deliver four Copies to the Juſtices of *C. B.* and the Defendant's Attorney four to the Barons *de Scaccario*, four Days before the Hearing of the Cauſe. Vide **Paper Books.**

Eſcape.

Vide Priſoners XII, XV, XXII.

I. WHERE any Defendant being in the Cuſtody of the Marſhal of this Court upon meſne Proceſs, ſhall be taken and detained in the Cuſtody of any Sheriff by Virtue of a Judge's Warrant for an Eſcape from the Cuſtody of the Marſhal aforeſaid; the Plaintiff in ſuch Action ſhall declare againſt ſuch Defendant in the Cuſtody of ſuch Sheriff, before the End of the ſecond Term after being ſo taken and detained, otherwiſe a *Superſedeas* ſhall be made for the ſaid Defendant. *Trin.* 6 *Annæ.*

Time for Declaring after Eſcape.

Note; If a Priſoner Eſcapes before he has been two Days in the Cuſtody of the Marſhal upon a *Capias ad Satisfaciendum*, and the *Ca. Sa.* is not returned, the Bail are not liable; but otherwiſe if the *Ca. Sa.* is returned. *Mich.* 3 *Ann. B. R.*

Exception. Vide Bail XVIII, XXVI. Error VII. Paper Books I.

Executions. Vide Error IV, V. Priſoners IX, XI. Writs.

Executors. Vide Ac etiam I.

Forma Pauperis.

Fees. Vide Attornies XII. Bail XIV. Habeas Corpus VII. Money brought into Court I. Prisoners VIII, XXI, XXII, XXXVI, XLVI. Record VI. Rolls IV. Writs VI, VII.

Filazers.

Vide Original.

Mic. 15 *Car.* 1. I. ALL Filazers are to attend the Court by the second Return of every Term, or forfeit their Offices.

Hill 30 *Car.* 2. II. The Master was to examine what Writs the Filazer ought to sign. Vide *the Rule made the then next* Hillary-Term *under Title* Original.

Fines.

Hill. 6 *W. & M.* I. ALL Fines due to the King and Queen in this Court, for or upon all Actions for Debt or Damages in this Court, shall be received and collected as heretofore.

Forma Pauperis.

Hill. 3 & 4 *Jac.* 2. I. NONE shall be admitted in *Forma Pauperis* out of Court. *Note; A Pauper may now be admitted out of Court, by making Affidavit of his not being worth* 5*l. and annexing it to a Petition to the Chief Justice, with Counsel's Opinion.*

Gaolers. Vide Priſoners.

Habeas Corpus.

Vide Priſoners VIII, XVI.

I. WHERE any Perſon ſhall be brought by *Habeas Corpus* here in Court, or before one of the Judges (*a*), in Order to be committed to the Cuſtody of the Marſhal of this Court, ſuch Writ of *Habeas Corpus*, with the Return thereof, ſhall be left with the Secondary of this Court, or the Clerk of the Judge before whom ſuch Perſon ſhall be brought, to be affiled; and a Copy or Note of ſuch Return, under the Hand of ſuch Judge or Secondary, ſhall be delivered to the Marſhal at the Time of Commitment; and ſuch Copy or Note ſhall be made by the Perſon ſo proſecuted upon ſuch *Habeas Corpus*, or by his Attorney. *Trin.* 3 *Annæ.*

Of Commitment.

Mr. *Hawley* of the King's Bench Office ſigns the *Habeas Corpus*, you pay him 6 *s.* 8 *d.* in Term, and 7 *s.* 8 *d.* in the Vacation, and for Sealing it you pay 7 *d.* When your *Habeas* is directed to the Sheriff, you lodge it with him, and pay him, when the Defendant is only charged with one Action, for allowing the Writ 4 *s.* 8 *d.* Return 2 *s.* 4 *d.* Bailiff's Warrant to take Defendant before a Judge 2 *s.* 4 *d.* And if the Defendant be a Priſoner in *Newgate* 2 *s.* 4 *d.* more for the Keeper's Warrant to deliver him to the Bailiff.

(*a*) When the *Habeas Corpus* is return'd, and the Bailiff brings the Defendant to the Judge's Chambers to be committed to the *King's Bench* Priſon, you pay 10 *s.* to the Bailiff for bringing up the Defendant, 6 *s.* 8 *d.* to the Judge's Clerk, and 6 *s.* 8 *d.* to the Tipſtaff.

King's Bench.
Hill. 5 W. & M. Of *Habeas Corpus* from another Court.

II. Priſoners committed into the Cuſtody of the Marſhal upon a *Habeas Corpus ad reſpondend' vel ad faciend' & recipiend'*, ſhall remain for two Days next after ſuch Commitment, notwithſtanding any ſuch other *Habeas Corpus* from another Court delivered to the ſaid Marſhal.

Hill. 2 Jac. 2. Where Bail is required. The Bail are liable to all the Actions mentioned in the Return of the *Habeas Corpus*, wherein he is declared againſt within two Terms after.

III. Every Defendant not being an Executor or Adminiſtrator, who ſhall proſecute any *Habeas Corpus* to remove any Suit out of any inferior Court, ſhall put in ſpecial Bail in all Actions (except for ſcandalous Words and ſmall Aſſaults,) unleſs one of the Juſtices of this Court ſhall otherwiſe Order.

In the Rules for taking Bails before Commiſſioners, Q. The Date. Form of Bail-piece and taking Bail. *Vide* Title *Bail* for the Form at large; this Part of the Rule only ſhews the Variation.

IV. If any Bail be given upon any Action removed out of any inferior Court by *Habeas Corpus*, and returnable in this Court; then inſtead of Writing (*in the Bail-piece*) upon a *Cepi Corpus*, ſay upon a Writ of *Habeas Corpus*, and inſtead of Writing the Plaintiff's Name, write *at the Suit of the Plaintiff in the Plaint*; and the Cogniſors muſt undertake, that if the Defendant be condemned at the Suit of the Plaintiff or Plaintiffs in the Plaint, that he ſhall ſatisfy the Coſts and Condemnation, or render his Body, *&c. As upon a* Cepi Corpus.

V. No

V. No Bail to be put in on any *Habeas Corpus* until the *Habeas Corpus* and Cauſes for which Bail is to be put in be returned; to the End that it may appear what the Cauſes are for which the Defendant is detained, and Bails duly taken, and the *Habeas Corpus* and Bail duly filed. *And afterwards ordered, that,*

King's Bench.
Mic. 1651.
The like
Paſ. 29 *Car.* 2.
To be return'd before Bail filed.

VI. No Bail ſhall be put in on a *Habeas Corpus*, before the Writ be returned; and no Bail ſhall be taken by any Juſtice of this Court, unleſs the Writ with the Return thereof be brought before the ſaid Juſtices, to be filed at the Time of putting it in.

Hill. 10 *W.* 3. Note; At the Return of the *Habeas Corpus*, the Plaintiffs may have a Rule for a *Procedendo*, unleſs the Defendant puts in Bail within four Days after Notice of it, if in Term, and Six in the Vacation. It is ſaid there is no Need of giving Notice of putting in Bail on *Habeas Corpus*. *Sed Q.*

VII. Attornies at the Time of putting in Bail upon a *Habeas Corpus*, ſhall depoſit in the Judge's Clerk's Hands 4 *s.* and 10 *d.* for filing it. *Vide* Title Bail.

Paſ. 29 *Car.* 2. Fee for filing Bail.

VIII. Every Attorney who ſhall put in ſpecial Bail before a Judge *de bene eſſe* upon a *Habeas Corpus*, if the Plaintiff does not except againſt the Bail within twenty-eight Days after the putting it in, then ſuch Bail ſhall be filed by the Defendant's Attorney within four Days next after the End of the ſaid twenty-eight Days. *But where the Plaintiff does except againſt ſuch Bail, the Plaintiff may have a Rule for a* Procedendo, *unleſs Bail be perfected in*

Mic. 16 *Car.* 2. Of excepting againſt Bail.

When to file it, if not excepted againſt.

King's Bench. *four Days after the Service of ſuch Rule, whether it be in Term or Vacation.*

Note; If the Cauſe is removed here by *Habeas Corpus*, the Plaintiff muſt begin *de novo*, and declare againſt the Defendant as *in Cuſtod. Mareſcalli*, for the Record is not removed by the *Habeas Corpus* as it is on a *Certiorari*. *Salk.* 352.

The Plaintiff muſt declare in two Terms after the Return, or the Defendant needs not plead.

Where Defendant removes his Cauſe, he cannot *Non pros'* the Plaintiff for Want of a Declaration.

2. If the Defendant muſt plead within the Times limited in Proceedings on *Cepi Corpus*.

Imparlance.

Priſoners III, IV. Pleas I to III.

Paſ. 5 *Annæ*, 1706. Special Imparlance.

I. NO ſpecial Imparlance ſhall be allowed any Defendant without Leave of the Court.

Hill. 2 *Geo.* 2. Imparlance when on ſpecial Proceſs.

II. Where the Cauſe of Action is ſpecially ſet forth in the Proceſs, and the Plaintiff thereupon declares, the Defendant ſhall not imparl, without Leave of the Court.

Incipiturs. Vide **Record of Miſi prius I. Rolls IV, V.**

Inns of Court and Chancery. Vide **Attornies I to VI.**

Inquiry,

Inquiry. Vide Declarations V. Notices II. *King's Bench.*

Iſſues.

Vide Record of Niſi prius II, III. Rolls II to IV. Trials I, II.

I. UPON Pleading any General Iſſue, or general Demurrer to any Declaration, before any ſpecial Demurrer or ſpecial Plea pleaded; the Plaintiff's Attorney ſhall and may deliver unto the Defendant's Attorney a Copy of Iſſue or Demurrer, who ſhall pay for the ſame after the Rate of 4 *d. per* Sheet Copy-wiſe, and alſo for the Stamps thereon, and in Default of ſuch Payment, the Plaintiff's Attorney may ſign Judgment as if no Plea or Demurrer had been given or pleaded. *Trin.* 12 *W.* 3. 1700. Of paying for them.

Judgments.

Vide Ejectments V. Pleas I to IV. Priſoners XI. Rolls V. Warrants II.

I. PRacticers are to take Notice, that for the Future no Diſtinction as to the Time of ſigning Judgments, will be made betwixt Town and Country Cauſes: But that in all Caſes, the Plaintiff is at Li- Notice fix'd up in the King's Bench Office, *Feb.* 25. 1728. When Judgment may be ſigned.

King's Bench. Liberty to ſign his Judgment the Day after the Rules for Pleading are out; Declaration having been regularly delivered or filed, and the Defendant, or his Agent being called upon for a Plea, according to the Rules and Courſe of the Court.

Note; The Judgment, or an *Incipitur* thereof, muſt be entred on the Roll before Judgment ſigned. Vide **Rolls** V.

Trin. 12 *W.* 3. 1700. For what Judgment may be ſigned.

II. Judgment may be ſigned for not paying for Declaration, General Iſſues, or General Demurrers. Vide **Declaration** II. and **Iſſues.**

Paſ. 17 *Jac.* 1: Docquet.

III. In every Judgment where the Debt or Damages amount to 20 *l.* or upwards, a Note of the Plaintiff's and Defendant's Name, and the Debt or Damages recovered, with the Term and N^o^ of the Roll, ſhall be made by the Attorney, in this Form:

A. B. at the Suit of *C. D.*
Debt 20 *l.*
Eaſter 17. *Roll* 302.
A. J. and *B. R.* at the Suit of *N. S.*
Damages 23 *l.* 13 *s.* 4 *d.*
Hillary 15. *Roll* 100.

Which Note ſhall be brought to the proper Officer to be entred in a Book for that Purpoſe.

Eaſter 1657.

IV. The Defendants Names in all Judgments, that ſhall be entred in this Court ſhall be entred in a Remembrance, or Docket alphabetically, for the better finding them out.

Jury.

Vide Diſtring' Juratoꝝ', Venire Facias.

I. UPON any Reference to the Secondary, to return any Jury, or Name forty-eight ſufficient Jury for Trial at Bar, in the Preſence of the Attornies on both Sides, if either Attorney does not appear before the ſaid Secondary, at the Time by him appointed for naming the Jury aforeſaid, or to ſtrike out twelve on either Part; in ſuch Caſe the Secondary may do the ſame in the Abſence of ſuch Attorney, and the ſaid Jury ſhall be returned by the Sheriff to try the Iſſue. *Trin.* 8 *W.* 3. Of Striking ſpecial Jury.

II. On old *Diſtringas's*, Sheriffs ſhall cauſe ſufficient Summons to be given to all Jurymen, a Week before the Aſſizes at leaſt. *Eaſter* 1651. Summoning Jury.

Keepers of Gaols. Vide **Priſoners.**

Keeper of the Seal. Vide **Writs.**

Latitat. Vide **Bails IV.** **Ejectment I, II.** **Writs.**

Marſhal.

Marſhal. Vide Priſoners.

Maſter. Vide Attornies XI, XII. Jury I.

Money brought into Court.

Paſ. 5 Jac. 1.

I. THE Party bringing Money into Court (*a*) ſhall pay to the Secondary for keeping the ſame (*b*) 20 *s.* for every 100 *l.* and after that Rate for a greater or leſſer Sum. If under 10 *l.* to be paid 2 *s.*

(*a*) Money cannot be paid into Court without Leave obtained on Motion. This Motion ſhould be made before the Defendant has pleaded; for the Rule is, That the Defendant ſhall have Leave to bring ſo much Money into Court, and thereupon, unleſs the Plaintiff accepts it with Coſts to be taxed in Diſcharge of the Suit, the Sum ſo paid into Court ſhall be ſtruck out of the Declaration, and paid out of Court to Plaintiff or his Attorney; and upon Trial, the Plaintiff not to be permitted to give Evidence for ſuch Sum.

(*b*) To the Signer of the *Latitats* for the Secondary.

Note; The Plaintiff's Attorney muſt be ſerved with a Copy of the above-mentioned Rule, and at the ſame Time deliver him the General Iſſue. And if he accepts of the Money in full Diſcharge, you pay him Coſts to the Time he pays it: But if he will not accept of it in full Diſcharge, he may take the Money out of Court in Part of his Demand, and proceed in his Action; but if on the Trial he has not a Verdict for more than what was paid into Court, he will be nonſuited and muſt pay Coſts to the Defendant.

Motions.

Vide Attornies IX. Imparlance I.

I. IF a Motion be made in the Preſence of Counſel on both Sides, and the Court makes a Rule therein; the Court may not be moved again contrary to ſuch Rule, on Pain of an Attachment againſt him who procures ſuch Motion. And the Counſel who ſo moveth, having had Notice of the firſt Rule, not to be heard in any Cauſe in Court that Term. *Hill.* 3 *Jac.* 1.

Ne recipiatur. Vide Trials III, IV.

Non Pros'. Vide Declaration VI.

Notices.

Notice of Bail. Vide *Titles* Bail VII, XIII. Error VI. Bail.

—— *Of Surrender.* Vide Bail XXVIII. Priſoners.

—— *Of Diſcharge.* Vide Priſoners XI.

—— *Of Declaration.* Vide Declaration V. Declaration.

—— *Of Inquiry* *. Vide Declaration V. Inquiry.

* The Defendant muſt have eight Days Notice of executing a Writ of Inquiry.

Due

King's Bench.

Mich. 1651. *Trial.*

I. DUE Notice is to be given the Defendant upon all Trials (*a*) at the Aſſizes, as well in (*b*) old as in (*c*) new Cauſes, and likewiſe to the Plaintiff when by Proviſo, as well in (*d*) *London* and *Middleſex* as at the Aſſizes.

(*a*) Notice of Trial is not good before Iſſue joined; but it is good on the Delivery of the Iſſue.

(*b*) If a Cauſe has continued four Terms after Iſſue joined, a Term's Notice of Trial muſt be given.

(*c*) If the Cauſe has not been four Terms after joining Iſſue, only eight Days Notice needs to be given for Trial, at any Aſſizes in *England*.

(*d*) The Defendant ought to have eight Days Notice of Trial in *London* and *Middleſex*, excluſive of the Day that Notice is given, if he lives within forty Miles from thence; but if forty Miles, or above, he ought to have fourteen Days excluſive: And if due Notice be not given, the Court, on Motion, will grant a new Trial. 2 *Lilly* 242. And if Notice of Trial be given in *London* or *Middleſex*, and not tried that Sitting, the Plaintiff may try it the next Sitting upon two Days Notice; but if not tried at the next Sitting, then new Notice is to be given as at firſt, *viz.* Eight Days; *per Magiſtrum Liveſay & al. Paſ.* 21 *Car.* 2. 2 *Lilly* 236. And if one gives Notice of Trial to the Defendant, and doth not try his Cauſe at the Day appointed but defers it longer than one Term after, he muſt give a Term's Notice before his Trial; but if he tries it the next Term after, there needs no new Notice; for if the Plaintiff tries it not, then the Defendant may try it by Proviſo. *Trin.* 1652. *B. S.* 2 *Lilly* 240.

N. B. *For Notice of Trial after a* Ne recipiatur *entred*, vide Trials IV.

Hill. 8 *Geo.* 1. Where Notice of Trial ſhall ſerve for Inquiry.

II. Where the Plaintiff concludes to the Country upon the Defendant's Plea, and gives Notice of Trial upon the Paper Book, and thereupon the Defendant, to hinder the Trial of the Iſſue, demurs upon the Replication, and the Plaintiff joins in Demurrer, and obtains Judgment; the

the Defendant's Attorney ſhall be obliged to accept of Notice of executing the Writ of Inquiry, from the Time of giving ſuch Notice of Trial upon the Paper Book. *King's Bench.*

Note; The Court on Motion will allow Coſts for not executing a Writ of Inquiry according to Notice, in like Manner as for not going to Trial. *Trin.* 1721. *B. R.*

Oyers. Vide Rules.

Original.

I. ALL Originals, which ought to be ſigned by the Filazer, ſhall be ſigned before they ſhall be ſealed. *Hill.* 31 *Car.* 2. Signing and Sealing.

II. All Writs and Proceſs's whatſoever upon original Writs iſſuing before Appearance, ought to be ſigned by the Filazer. *Eaſter* 31 *Car.* 2.

III. In all Cauſes by Original, where ſpecial Bail is put in, if the Plaintiff will except againſt it, ſuch Exception ſhall be entred in the Filazer's Book, and Notice forthwith be given to the Defendant's Attorney, as required in Cauſes by Bill. *Paſ.* 2 *Geo.* 2. Bail.

IV. No Filazer, Clerk or Attorney ſhall enter, deliver, or receive, any Declaration varying in Matter from the original Writ, without a ſpecial Rule of Court, or enter or receive more than one Declaration on one Original. Filazers offending *Hill.* 8 *Car.* 1. Declaration.

King's Bench. offending to loſe their Office, and be expelled the Court, and likewiſe Expulſion to every Clerk or Attorney ſo offending.

Palace Court.

Paſ. 9 *Car.* 1. I. THE ſeveral Records of Judgments, affiled in Court, upon Writs of Error, which are not entred of Record, ſhall be amended in the Stile of the Court, and made. Of the Court of the King's Palace at *Weſtminſter* held at *Southwark* in the County of *Surrey* within the Juriſdiction of this Court on *Friday*, to wit, *ſuch a Day* in the *eighth* Year of the Reign of our Lord *Charles*, by the Grace of God of * *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, &c. before *T. E.* Knt. Treaſurer of the Houſhold of our Lord the King, *E. V.* Knt. Marſhal of the Houſehold aforeſaid, and *E. H.* Eſq; Steward of the ſaid Court, Judges of that Court by Virtue of Letters Patent of the ſaid Lord the now King, bearing Date at *Canterbury* the 12th Day of *July* in the 6th Year of his Reign.

Stile of the Palace Court.

* Now *Great Britain.*

Paper Books.

Vide Demurrer. Error VIII. Notices II.

I. UPON reading any Record in Court upon Demurrers, ſpecial Verdicts, or Writs of Error, and thereupon a Day is given to hear Counſel on both Sides, Books ſhall be delivered by the Attorney of either Party to the Judges of this Court, four Days before the Day ſo appointed, and the Exceptions which are inſiſted on upon Argument to be marked in the Margin of the Books.

Paſ. 2 Jac. 2. Of Delivering them to the Judges.

Exceptions.

II. All Cauſes remaining undetermined in any Term, which ought to be entred in the Court-Book kept by the Clerk of the Papers, to be ſo entred within ſeven Days after the End of that Term to be heard the next Term following if any of the Parties intend then to proceed, to the End that the Clerk of the Papers in convenient Time may deliver to every Judge a Paper of the ſaid Cauſes, otherwiſe the ſaid Cauſes not to be received to be entred into the ſaid Book without Motion. *This Rule is not regarded now.*

Eaſter 1658. Entring Cauſes in the Court Book,

And

Delivering a Paper thereof to the Judges.

III. In all Cauſes in the Paper, where Books ought to be delivered to the Judges, the Plaintiff or his Attorney ſhall give them to the Chief Juſtice and Senior Juſtices,

Mic. 17 *Car.* 1. Who ſhall deliver Copies of Books to the reſpective Judges.

King's Bench. Juſtices, and the Defendant or his Attorney to the other Judges; and if one of the Parties neglects, it ſhall be done by the other, at the Coſt of the Party that neglects, before any Argument ſhall be made at Bar. *

* Where one of the Parties delivers all the Books on the other's neglecting to deliver any purſuant to this Rule, ſuch Party neglecting will not be heard when the Cauſe comes on to be argued.

N. B. In order to make up the Paper Book, carry the Declaration to the Clerk of the Papers with whom the Plea is filed, and he will make up the Paper Book, and give a Rule in the Margin thereof, that if the Defendant do not receive the Paper Book and return it to be entred in four Days, a *Non Pros'* will be entred. You pay the Clerk of the Papers 10 *d.* a Sheet, beſides Stamps.

For Expedition-ſake you may get a Copy of the Plea, and make it up your ſelf, and let the Clerk of the Papers peruſe it and give the aforeſaid Rule.

Paupers. Vide Forma Pauperis.

Pleas.

Vide Priſoners II to V.

Mic. 5 *Annæ.* Time formerly allowed for Pleading on general Proceſs by Bill.

I. ON Proceſs returnable *tres Paſ.* or *Menſ. Mic.* where the Defendant *filed* Bail, and the Plaintiff *declared* in *London* and *Middleſex*, then if the Declaration *was* delivered or left in the Office before the Eſſoin-Day of *Menſ. Paſ.* in *Eaſter*-Term, and before the Eſſoin-Day of *Craſt. Animar.* in *Mich. Term*, the Defendant *was* to plead to Iſſue of the Term of Declaring four Days before the Eſſoin-Day of the next Term, or Judgment

might be entred by Default, or if the Declaration was not ſo delivered, or filed, then the Defendant *was* to have an Imparlance 'till the next Term. *But this Practice is altered, ut Poſtea* III. *King's Bench.*

II. Where any Defendant ſhall be arreſted by Proceſs wherein the Cauſe of Action ſhall be ſpecially ſet forth, and * expreſs'd, or where a Copy of ſuch Proceſs is ſerved on ſuch Defendant according to the Statute, and the Plaintiff thereupon declares, then the Defendant ſhall not imparl without Leave of the Court, but ſhall plead thereto within the Time by the Cuſtom of the Court allowed upon original Writs, or Judgment may be entred by Default. *Hill. 2 Geo. 2.* When to plead on ſpecial Proceſs. * Vide Actiam II. for the Manner of inſerting the Cauſe of Action ſpecially.

III. Upon (*) all Proceſs returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*, the Declaration ſhall be delivered with Notice to plead within four Days after the Delivery thereof, and the Defendant ſhall plead within the ſaid four Days without any Imparlance; and if the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, the Declaration ſhall be delivered with Notice to plead within eight Days after the Delivery thereof, and the Defendant ſhall plead within the ſaid eight Days without an Imparlance, or Judgment may be *Trin.* 5 & 6 *Geo.* 2. 1732. General Rule for the Time of Pleading. In *London* and *Middleſex*. *In other Counties.* (*) Q. *If this Rule extends to ſpecial Proceſs, as mentioned in the laſt Rule.*

King's Bench.

signed by Default. *And by the next (a later) Rule,*

Mic. 10 *Geo.* 2. 1736.

IV. Upon all Proceſs returnable the 1ſt or 2d Return of any Term, where no Affidavit is filed of the Cauſe of Action, the Declaration may be delivered *de bene eſſe* at the Return of the Proceſs, with Notice to plead in eight Days after the Delivery thereof; and if the Defendant does not file common Bail, and plead within the ſaid eight Days, the Plaintiff may ſign Judgment for Want of a Plea, a Rule being duly entred. And upon all Proceſs returnable as aforeſaid, where ſuch Affidavit is filed, Declaration may be delivered *de bene eſſe* at the Return of the Proceſs with Notice to plead within four Days after the Delivery, if the Action be laid in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*; and in eight Days, if the Action is laid in any other County, or the Defendant lives above twenty Miles from *London*; and if the Defendant puts in Bail, and does not plead within ſuch Time as is reſpectively above-mentioned, Judgment may be ſigned, a Rule being duly entred.

When to plead when Declaration is delivered *de bene eſſe*, and no Affidavit of Debt filed.

When an Affidavit is filed.

Abatement.

Note; *Where Declaration is delivered before the Eſſoin-Day of the Term, Defendant hath four Days in that Term to plead in Abatement, without an Imparlance.*

V. Only

V. Only four Days Time ſhall be allow'd Defendants from the Time of giving Rules to plead.

King's Bench.
Trin. 1 *Geo.* 2. 1727.
Time from giving Rule.

Sunday or any Holiday on which the Court does not ſit is reckoned a Day within this Rule, except the Sunday or ſuch Holiday happens to be the laſt of theſe four Days.

VI. None ſhall deliver or receive any Pleadings which ought to be left with one of the Clerks of the Papers, or Copies of ſuch Pleadings, unleſs ſigned by one of the ſaid Clerks. Penalty for 1ſt Offence 10*s.* 2d 20*s.* and 3d Expulſion.

Trin. 2 *Jac.* 1. *Trin.* 16 *Car.* 2. *Mic.* 2 *W. & M.*
Special Pleas to be left with or ſigned by the Clerk of the Papers.

To be left, If the Plaintiff's Name begins with { A. *with Mr.* Benton, } *and ſo alternately* { B. *with Mr.* New, }

VII. No ſpecial Pleas or Demurrers, ſhall be received by the Clerk of the Papers before they be ſigned by Counſel. And the Clerks ſhall ſubſcribe the Name of ſuch Counſel to all Copies of Pleas and Paper Books by them made. Attornies to do the like in Books for the Judges.

Paſ. 18 *Car.* 2.
But firſt to be ſigned by Counſel.

Pluries. Vide **Writs.**

Poſteas.

Hill. 1657. *To whom deliver'd.*

I. NO Poſteas *were* to be delivered out of Court to any but the Prothonotaries, their Clerks or the Filazers; *but this is not now regarded*, Poſteas *being moſt commonly delivered to Attornies.*

Note; After Trial in *London* or *Middleſex*, the Aſſociate delivers Record to the Attorney with the *Diſtringas* and Panel annexed; on the Back of the Panel he writes the Subſtance of the Verdict, and the Coſts given by the Jury, and the Attorney indorſes the *Poſtea* himſelf on the Back of the Record. But when the Cauſe is tried at the Aſſizes, the Aſſociate keeps the Record and *Diſtringas* till next Term, and in the *Interim* indorſes the *Poſtea*, for which he is always paid at the Aſſizes, but ſometimes when of extraordinary Length he is paid ſomething more when it is fetched from him.

Trin. 2 *Jac.* 1. *Of Marking them.*

II. Every Attorney and Clerk, who receives any *Poſtea* from the Clerk of the Aſſizes or other Officer for returning *Poſteas*, ſhall get it marked by the Clerk of the *Poſteas* (*a*) within two Days after he receives it. Penalty for 1ſt Offence 10*s.* 2d 20*s.* 3d Expulſion.

(*a*) Mr. *Haddock* in the King's Bench Office, for which pay him 4*d.*

Note; After it is marked, if the Plaintiff had a Verdict, give a Rule for final Judgment with the Clerk of the Rules for which pay 1*s.* 4*d.* which Rule will be out in four Days, if *Sunday* do not intervene. Then four Days are allowed for your Defendant to move in Arreſt of Judgment; but if he does not move in that Time, you may Stamp the *Poſtea* with a double Half-Crown Stamp, and then ſign final Judgment, and tax the Coſts with the Maſter, and ſue out Execution, or may bring a new Action on the Judgment recovered. But if the Plaintiff be nonſuited, there needs no Rule for final Judgment.

Priſoners.

Prisoners.

Vide Arrests I. Bail XXVII to XXIX. Escape I. Habeas Corpus.

Proceedings against them.

I. *First*, NO Copy of any Declaration is to be delivered to a Prisoner in Custody (*a*) before the Day of the Return of the Process, upon which the Defendant was taken or charged in Custody.

Pas. 5 W. & M. Declaration.

(*a*) Declaration is generally delivered to the Gaoler or Turnkey. There must be one Copy on Double-penny stamp'd Parchment to file, and two other Copies on Double-penny stamp'd Paper, one to deliver, and another to annex to the Affidavit hereafter mentioned.

II. *Secondly*, No Rule is to be given for the Defendant in Custody to appear, and plead, to any Declaration against him, 'till an Affidavit be filed with the Clerk of the Rules, of the Delivery of such Declaration, and the Time when, and to whom delivered, (*b*) and that the Defendant was arrested or charged in Custody, by Process of this Court returnable before the Delivery of such Copy (*c*); and the Time when such Affidavit was filed,

Affidavit of delivering Declaration, and Rule to plead.

(*b*) To be delivered to the Keeper, Gaoler or Turnkey.

(*c*) Likewise 'tis necessary to say, that the Turnkey or Gaoler acknowledged that the Defendant was then a Prisoner in the said Gaol.

King's Bench.

to be entred upon the ſaid Affidavit by the Clerk of the Rules, and a Copy of ſuch Affidavit to be produced to the Prothonotary or Secondary before ſigning Judgment (*d*).

(*d*) Make a Copy of the Affidavit on a double Six-penny Stamp, And of the Declaration on a double Penny Stamp, annex them together, and then file the original Affidavit with the Clerk of the Rules, and take the Copy with the Declaration annex'd to the Maſter, and he will give a Rule thereon for the Defendant to appear and plead, and the Clerk of the Rules enters it in his Paper, and in Default thereof Judgment may be ſigned.

But *note*; If the Defendant is in the Cuſtody of the Marſhal of the King's Bench, no ſuch Affidavit as above is requiſite, but you may give a Rule to plead of Courſe with the Clerk of the Rules.

Proceſs returnable the firſt of *Eaſter* or *Michaelmas*, and Declaration delivered before the 3d Return of them Terms. When to appear,

III. *Thirdly*, Upon every Arreſt by meſne Proceſs returnable the firſt Day of *Eaſter* or *Michaelmas* Term, if a Copy of the Declaration be delivered before *Mens' Paſ'* or *Craſt' Animar'*, and Affidavit thereof made and filed, and the Defendant does not appear before the End of ten Days after *Eaſter* or *Michaelmas* Term reſpectively, Judgment may be entred againſt him, if Rules have been given; but if he doth appear before the End of ten Days after the Term, he ſhall imparl 'till the next Term; unleſs the Action be in *London* or *Middleſex*, and the Defendant be in Priſon within forty Miles of *London* or *Weſtminſter*; then tho' he doth appear before the Expiration of ten Days after the End of the Term, he ſhall plead two Days before

And have an Imparlance,

And plead.

the

the Eſſoin-Day of the next Term; and in Default thereof Rules have been given, Judgment may be entred againſt him as aforeſaid. *King's Bench.*

IV. *Fourthly*, If a Copy of the Declaration be delivered on or after *Menſ' Paſ'* in *Eaſter* Term, or *Craſt' Animar'* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and thereupon the Plaintiff gives Rules to appear and anſwer; then, if the Defendant appears two Days before the Eſſoin-Day of the next Term, he ſhall imparl until the ſaid next Term: But if he does not appear within that Term, Judgment may be given againſt him. Declaration delivered on or after the 3d Return of *Eaſter* or *Michaelmas*, or any Time in *Hillary* or *Trinity*. Rule to plead. Imparlance.

V. *Fifthly*, If a Writ be returnable in any Term, and a Copy of the Declaration has been delivered before the Eſſoin-Day of the next Term, the Plaintiff in ſuch next Term may give Rules to appear and anſwer; and if the Defendant does not appear and plead upon the Expiration of the Rules, Judgment ſhall be given againſt him. Proceſs returnable of any Term, and Declaration delivered before the Eſſoin-Day of the next. When to plead.

VI. *Sixthly*, If the Declaration be not filed before the End of the next Term after the Writ or Proceſs (by which the Priſoner was taken or charged in Cuſtody) is returnable, and an Affidavit made and filed in Manner aforeſaid, before the End of twenty Days next after ſuch Term, the Priſoner ſhall be diſcharged by common Bail, ſigned by one of the Juſtices of this Court. In what Time the Plaintiff muſt declare, or Defendant may be diſcharged. *Vide* XI.

King's Bench.

Gaoler to deliver Declaration to Priſoner as ſoon as he receives it.

VII. *Seventhly*, If any Gaoler or Keeper of a Priſon, having received a Copy of a Declaration againſt any Priſoner in his Cuſtody, ſhall ſuppreſs the ſame, and not deliver it forthwith to ſuch Priſoner, an Attachment ſhall be iſſued againſt him.

Note; For the Manner of charging a Priſoner in Execution, *vide poſtea* XI. in the Notes.

Of Diſcharging Priſoners.

Hill. 14 *Car.* 1. When removed from the *Fleet*.

VIII. Every Priſoner removed by *Habeas Corpus* from the *Fleet* to the *King's Bench*, ſhall remain in the *King's Bench* 'till the Fees of the *Fleet* are paid.

Trin. 9 *W.* 3. For not being charged in Execution.

IX. If any Defendant being actually in Cuſtody of the Marſhal, be not charged in Execution before the End of the 2d Term after Judgment, (no Writ of Error being depending,) then common Bail ſhall be filed for ſuch Defendant, upon Notice thereof to the Attorney for the Plaintiff firſt given.

Vide XI.

Paſ. 16 *Car.* 2. For not Proceeding in due Time.

X. *By this Rule* Attornies who *ſhould* diſcharge any Priſoner for Default of Proceeding within three Terms, (*not particularly mentioning the Time of Declaring or Proceeding to Judgment and Execution, as in the next Rule*) *ſhould* give Notice to the Plaintiff or his Attorney to appear before a Judge to ſhew cauſe why the Defendant *ſhould* not be diſcharged before a

Judge's Summons.

Warrant

Warrant from the Judge *ſhould* be procured; and if the Plaintiff's Attorney *did* not appear, then upon Affidavit of Notice the Priſoner *ſhould* be diſcharged.

King's Bench. And Order.

XI. If any Defendant be committed into the Cuſtody of the Marſhal of this Court, or ſhall be charged in his Cuſtody, or ſhall be arreſted or committed by Proceſs of this Court into the Cuſtody of any Sheriff, or other Officer, at the Suit of any Plaintiff, and ſhall remain in Cuſtody two Terms, and the Plaintiff does not declare againſt him within that Time; ſuch Defendant after the End of the ſecond Term after ſuch Impriſonment (*a*) ſhall be diſcharged out of Priſon, upon filing common Bail, ſigned by one of the Juſtices of this Court, without giving Notice to the Plaintiff or his Attorney. And if ſuch Plaintiff declares againſt ſuch Defendant and does not proceed to Trial or Judgment within three Terms after ſuch Declaration delivered; or if the Plaintiff ſhall obtain Judgment againſt ſuch Defendant, and does not charge him in Execution (*b*) within two Terms

Trin. 2 *Geo.* 1. Of diſcharging Defendant. For not declaring, proceeding to Trial, Judgment, or Execution in due Time. *Vide* IX.

(*a*) The Term wherein the Writ is returnable is accounted one. In order to diſcharge Defendant for not declaring in due Time, get a Certificate from the Gaoler of the County Gaol, or Clerk of the Paper of the *King's Bench* Priſon, of the Cauſes he ſtands charged with, *&c.* and another Certificate from the Clerk of the Declarations, that no Declaration is filed, which carry to the Judge to obtain an Order for a *Superſedeas*.

(*b*) To charge the Defendant in Cuſtody of the Marſhal, draw up a Rule with the Clerk of the Rules, ſerve the Marſhal with a Copy, and he writes at the Bottom of the Rule his Acknowledgment, then enter the *Committitur* in the Marſhal's Book with Mr.

King's Bench. Terms after Judgment obtained, ſuch Defendant ſhall have Leave to file common Bail, or have a *Superſedeas* (*c*), to be granted by one of the Juſtices of this Court, if cauſe be not ſhewn to the contrary by the Plaintiff or his Attorney, on Notice given to either of them, by the Defendant. And Oath thereof to be made if the Plaintiff does not appear to ſhew Cauſe as aforeſaid.

Mr. *Lautrow*, and file it with Mr. *Hawley*. If you charge him in the Cuſtody of the Marſhal in the Vacation, you make an Entry in the Marſhal's Book in the ſame Manner as you ſee others therein entred, and in the enſuing Term you muſt declare againſt him.

(*c*) If the Defendant be a Priſoner in the *King's Bench* Priſon, the Clerk of the Bail's Certificate will diſcharge the Defendant the ſame as a Writ of *Superſedeas* in other Gaols.

Mic. 28 Car. 2. Not to go out of Gaol or Rules.

XII. The Marſhal ſhall ſuffer none in Cuſtody, detained in Priſon, or within the Rules, to go out of Priſon or Rules, without a ſpecial Rule of Court.

Rules for the better Government of the King's Bench *Priſon.*

Mic. 3 Geo. 2. 1729.

XIII. The following Rules made purſuant to the Statute 2 *Geo.* 2. "For the "Relief of Debtors with Reſpect to the "Impriſonment of their Perſons," to be ſtrictly obſerved by the Marſhal and his Officers, and all the Priſoners, and this and the following Rules to be fixed in the moſt publick Place in the aforeſaid Priſon for the Inſpection of the ſaid Priſoners.

Relating

Relating to the Marshal.

XIV. 1. The Marshal to cause a Pair of Stocks to be kept up in the Prison for the Punishment of such as Blaspheme the Name of God, swear, or misbehave themselves. Misbehaviour.

XV. 2. The Marshal shall not use any illegal Means of Confinement of any Prisoner on any Pretence; not to confine any in the Hole or Strong-room, or other unusual Place of Restraint; nor use any other extraordinary Means of Confinement, unless such Prisoner has been found actually attempting to break the Prison with an Inteht to escape; and if so confined may appeal to Court in Term, or to a Judge in the Vacation, for Redress. Strict Confinement. Escape.

XVI. 3. The Marshal not to sue, or procure to be sued out, any *Habeas Corpus* to remove any Person from the *King's Bench* Prison to the *Fleet*. *Habeas Corpus.*

XVII. 4. The Marshal not to turn any Prisoner back from the common Side to the Master's Side, without reasonable Cause, giving such Prisoner three Days Notice of his Intention to remove him, during which Time the Prisoner may appeal to a Judge to prevent the same: And pending which Appeal the Prisoner to be allowed his daily Subsistence as before; and his Share of the Dividends, and Removal from the common to the Master's Side.

King's Bench.

and other Advantages to be reſerved 'till it be determined.

Death of Priſoners.

XVIII. 5. If any Priſoner die in the ſaid Priſon, the Marſhal forthwith to give Notice to the Coroner that he may inquire how ſuch Priſoner came by his Death.

Garniſh.

XIX. 6. The Marſhal to take care that no Garniſh, or other Exaction be extorted from any of his Priſoners, and that none be deprived of his Share, Dues and Dividends, on any Pretence.

Proviſions.

XX. 7. The Marſhal to take care that the Priſoners may have any Beer, Ale, Victuals or other neceſſary Food, from what Place they pleaſe, and have and uſe ſuch Bedding, Linen, and other Things as they think fit, without purloining or detaining the ſame, or inforcing them to pay for the uſing them, or put any Reſtraint upon them in Relation thereto.

Table of Fees, Gifts, &c.

XXI. 8. The Marſhal to cauſe a Table of the Fees ſettled according to the aforeſaid Statute, theſe Rules, and a Liſt of all Gifts and Legacies to be hung up in ſome publick Place in the ſaid Priſon to be reſorted to by the Priſoners, without Fee or Reward.

Eſcapes.

XXII. 9. The Marſhal to endeavour by legal Means to prevent Eſcapes, and he and his Officers to treat the Priſoners with the utmoſt Tenderneſs and Humanity, as far as conſiſtent with the ſafe Cuſtody of them; and neither the Marſhal

shal nor any employ'd by him, to take from any Prisoner for Debt, more for Commitment, Chamber-Rent, Release or Discharge, than allowed in the aforesaid List of Fees. *King's Bench.* Rent, Release, &c.

Relating to the Officers and Servants of the Marshal.

XXIII. 10. The Turnkey diligently to attend the Gate or Door, and admit such Persons to any of the Prisoners, as by Law are intitled thereto. Admittance to the Prisoners.

XXIV. 11. No Cellarman, Turnkey, or other Officer or Servant of the Marshal to have any Share of the Charities, or bear any Office which may intitle him in the Disposition or Receipt thereof. Shares of the Charities, &c.

Relating to Prisoners in general.

XXV. 12. The Chapel to be kept in good Repair, and the Chaplain to attend to perform Divine Service, and administer the Sacrament at the usual Times of the Church of *England*. Chapel.

XXVI. 13. No Prisoner to wrong another on Pain of being set in the Stocks, for such Time as the Marshal, with the Consent of the Steward and Assistants, or any Two of them think proper. Stocks.

XXVII. 14. The Dining-Room to be kept in Repair, for the Prisoners to exercise Devotion or Conversation, and a Fire Dining-Room.

King's Bench. Rooms under it.

Fire kept therein as the Seaſon requires; and the two Rooms under it to be for the Uſe of ſuch as are afflicted with any Diſeaſe or Infirmity, that may require ſuch Accommodation.

Relating to Priſoners on the common Side.

When to be admitted on the common Side.

XXVIII. 15. Every Priſoner who ſhall make Oath before a Judge of this Court, a Commiſſioner, or a Juſtice of the Peace for the County of *Surrey*, that he cannot command 5 *l.* and cannot ſubſiſt without the Charities belonging to the common Side, ſhall immediately be admitted to the common Side, and be capable of being elected into all Offices, and intitled to all Shares, Dividends, and Profits belonging to the ſame.

Criminals.

XXIX. 16. No Perſon committed for criminal Matter to have a Vote or Suffrage in electing a Steward or other Officer of the common Side, nor to receive any Share of the Charities, other than his Share of the Profits ariſing from the Baskets.

Lodging.

XXX. 17. Every Priſoner to lodge in a Cabin within the Ward to which he belongs without Fee or Reward.

Aſſiſtant.

XXXI. 18. Every Priſoner to be capable of being choſen in his Turn an Aſſiſtant, and be intitled to ſuch Allowan-

ces and Advantages as have been cuſtomary. *King's Bench.*

Relating to the Revenue.

XXXII. 19. The Seal of the common Side to be kept by the Maſter of the King's Bench Office, and not to be affixed to any Receipt, or other Inſtrument, 'till approved and ſigned by the Marſhal, with the Conſent of the Priſoners of the common Side, ſignified under the Hand of the ſaid Steward and Aſſiſtants. *Seal.*

XXXIII. 20. If any Priſoner on the common Side be charged with one Action, and it be ſuperſedable, the ſame to be ſuperſeded with the Money belonging to the Priſoners of the common Side, by their Conſent, ſignified under the Hands of their Steward and Aſſiſtants, and ſigned by the Marſhal; but if charged with more than one Action, not to be ſuperſeded with ſuch Money, unleſs by Order obtained on Application to the Court in Term-time, or to a Judge in the Vacation. And no Judge's Clerk to take any Fee in any Matter relating thereto. *Superſedeas.*

XXXIV. 21. Particular Care to be taken of Priſoners on the common Side when ſick, and Neceſſaries provided by the Steward and Aſſiſtants, and they to be re-imburſed out of the firſt County-Money. *Sickneſs.*

XXXV. 22.

King's Bench. Debts.

XXXV. 22. Debts reaſonably contracted by the Steward and Aſſiſtants, with the Concurrence of the Marſhal, and Maſter of the King's Bench Office, for the neceſſary Support of poor Priſoners, to be entred by the Steward and Aſſiſtants in their Houſe-Books, and to be repaid out of the next Dividend.

Fees.

XXXVI. 23. No Money to be allowed the Steward and Aſſiſtants for Sitting on Houſe-Buſineſs, or adjuſting Differences between Priſoner and Priſoner.

XXXVII. 24. Any Priſoner that comes into Priſon, after the 1ſt Day of *Eaſter-Term*, to have but one Quarter of *Midſummer* dividend.

Basket-men.

XXXVIII. 25. The Money brought to the Priſon by the Basket-men, and their Boxes, and the Boxes which come in at *Chriſtmas*, *Eaſter*, and *Whitſuntide*, to be immediately divided to each Priſoner, making the Basket-men ſuch reaſonable Satisfaction for their Trouble, as has been uſually allowed.

Superſedeas.

XXXIX. 26. In Caſe the Marſhal in Aid of the Steward and Aſſiſtants, advance any Money for ſuperſeding any Action againſt any Priſoner as before directed, he ſhall be re-imburſed out of the next County-Money.

Election of Steward, *&c.*

XL. 27. Priſoners of the common Side have Power to make an Election of a Steward every Year; no Priſoner who hath the Liberty of the Rules, or Liberty to go out of the Walls of the Priſon,

to have a Vote for Steward, or other Officer of the common Side. Steward to continue in his Office a Year, unleſs removed upon Application to the Court in Term, or a Judge in the Vacation. *King's Bench.*

XLI. 28. Steward of the common Side to keep a Regiſter-Book of the Fees aforeſaid and theſe Rules, and of the Charities which the Priſoners may inſpect, and the Steward's Accounts. Regiſter.

XLII. 29. If any Priſoner be wronged or abuſed by the Steward and Aſſiſtants, on complaining to the Court in Term, or in the Vacation to a Judge, or to the Marſhal (on Proof thereof) to have Allowance for Coſts and Charges, to be paid out of the next Dividends belonging to the Steward and Aſſiſtants, or ſuch of them who have wronged the Perſon complaining; or if the Complaint prove groundleſs, the Complainant to make Satisfaction out of his Share of the next Dividend. Wrongs.

XLIII. 30. If any of the Aſſiſtants, or the Steward, miſpend or Waſte the Houſe-money, the next Aſſiſtants, or any ſucceeding them, may call the former to account for the ſame; and on Proof of Money miſ-ſpent call all Dividends, as well at the Grate as otherwiſe, to be taken, ſtopp'd, and kept for Reparation, and to be put into the Houſe-Box 'till divided to each Priſoner. Waſte.

King's Bench. Orders to be read.

XLIV. 31. The Steward and Assistants to cause these Orders to be read every third *Monday* at the first Basket, being the usual Day for chusing the Officers, and settling the House Accounts.

XLV. 32. The Marshal, his Officers and Servants, and the Prisoners to keep these Orders, under the Penalty of the utmost Punishment that by Law can be justly inflicted on them.

Fees.

XLVI. 33. No Clerk, Officer, or Servant belonging to any Judge of this Court to take any Gratuity by Reason of any Petition, Complaint, or Application made to any Judge by any of the said Prisoners, pursuant to these Orders.

Process. Vide Writs.

Prothonotaries. Vide Posteas I. Rolls VI. Writs IV, V.

Recognizances. Vide Bail XXII, XXVII. Habeas Corpus IV.

Record of Nisi prius.

Vide Rolls III, IV.

Trin. 1 *Jac.* 2. Incipitur of Issue to be made before Record signed.

I. NO Record of *Nisi prius* to be sealed by any Officer of this Court, until the Issue, or Part thereof, be entred

tred upon a numbered Roll; and such Iſſue ſhewn to the Secondary, and by him ſigned. *King's Bench.*

II. *By this Rule*, Where Iſſue *was* joined of a precedent Term, it *was to* be tried * within the firſt Week of Term, and the *Cuſtos Brevium was not* to ſeal any Record of *Niſi prius* upon ſuch Iſſue, after that Time, without ſpecial Leave of the Chief Juſtice. *But ſee the next Rule.* *Hill.* 15 & 16 *Car.* 2. Of ſealing Records on old Iſſues. * If at Bar.

III. Iſſues joined of any former Term ſhall be tried the firſt or ſecond Sitting of every Term; and the *Cuſtos Brevium* ſhall not ſeal any Record of *Niſi prius* contrary to the Intent of this Rule. *Hill.* 20 & 21 *Car.* 2.

IV. Records of *Niſi prius* in *London* and *Middleſex* to be ſealed on or before the reſpective Days appointed in the Sittings-Paper for their Trial. *Eaſter* 7 *Geo.* 1. 1721.

V. No Record of *Niſi prius* for Trial at the Aſſizes *was* to be ſealed after one Month from the End of the Term. *But afterwards by the next Rule ordered that,* *Trin.* 15 *Car.* 2.

VI. No Record of *Niſi prius* for Trial at the Aſſizes ſhall be ſealed after the End of three Weeks, from the End of the Term. *Trin.* 31 *Car.* 2.

VII. No Attorney of this Court who is named in any Record of *Niſi prius*, and attends himſelf at the Aſſizes, ſhall pay more for putting in the Record than the Attornies of the Common Pleas do in the like Caſes. *Paſ.* 13 *Jac.* 1. Entring at the Aſſizes.

King's Bench.
Trin. 10 & 11 *Geo.* 2. 1727. (By the 12 Judges).

VIII. In every Cauſe to be tried in the Circuits, the Writ and Record ſhall be entred together, and no Record ſhall be received without the Writ.

Reddidit ſe. Vide Ball XXIX.

Returns of Writs.

Vide Certiorari I. Habeas Corpus V, VI. Scire facias I.

Paſ. 6 *Jac.* 1.

I. EVery Sheriff before the End of every Term, or immediately after, ſhall deliver and return into Court all *Latitats* and Writs thereupon, and make Affidavit that the Writs ſo delivered and returned are all that came to their Hands; in Default thereof, the Sheriff to be compelled to attend the Judgment of the Court for his Contempt.

Trin. 21 *Car.* 1.

II. The Sheriff of *Cheſter* to return all Writs of this Court, directed to him, or forfeit 50 *l.*

Mic. 6 *Geo.* 2. 1732. Rule to return a Writ, or bring in the Body.

III. Sheriffs or Under-Sheriffs, upon being ſerved with a Rule peremptorily to return any Writ of this Court, or to bring in the Body of the Defendant within ſix Days after Notice, if the ſame be not done in the ſaid Time, they will be liable to an Attachment, without a further Rule as heretofore.

Rolls.

Vide Deeds I. Demurrer III. Judgments III. Record of Niſi prius I.

I. NO numbred Rolls to be delivered to any, but the chief Clerk's Clerk *. And no Indenture, Writing, Writ of Error, Iſſue, or Demurrer, ſhall be entred on the Filazer's Rolls.

Trin. 1 *Jac.* 2. To whom deliver'd.

* But now ſuch Rolls are delivered as well to Attornies as the Clerks of the Chief Clerk.

II. Every Iſſue after the Record of *Niſi prius* made up *was* to be entred on Record before the Beginning of the ſubſequent Term. *And afterwards ordered that,*

Hill. 1649. When Entries are to be made on the Rolls.

III. All Iſſues ſhall be entred on the Roll, before the Record of *Niſi prius* be made. *But yet more fully by the next Rule.*

Eaſter 1657. Before Record made up.

IV. No Record of *Niſi prius* ſhall be ſealed or paſſed at the *Niſi prius* Office by the *Cuſtos Brevium*, or any Clerk of that Office, before the Iſſue in that Cauſe be fairly entred on Record, or an *Incipitur* thereof made; and ſuch Entry or *Incipitur*, with the Record of *Niſi prius* to be firſt brought to, and ſigned by the Secondary of this Court, for which no Fee ſhall be demanded or paid, but the uſual and accuſtomed Fee due to the Chief

Mic. 5 *Annæ*, 1706.

King's Bench.

Clerk for the Entry of ſuch Iſſue on Record.

Same Rule. Before Judgment ſign'd.

V. Every Judgment in any Action ſhall be entred fairly on the Roll, or an *Incipitur* thereof, before Judgment ſhall be ſigned by the Secondary or any Judge of this Court; and the Names of the Plaintiff and Defendant, the County and the Nature of the Action, with the Attorney's Name, ſhall be entred in a Book to be kept by the Secondary of the Court, for which nothing ſhall be paid but the accuſtomed Fee for entring ſuch Judgment.

Hill. 1657. By whom Entries are to be made.

VI. According to the ancient Courſe of the Court, none ſhall be permitted to enter any Cauſes or Judgments upon the Prothonotaries Rolls, but the Prothonotaries or their Clerks to whom the Entring thereof doth of Right belong; and

In what Manner.

that all the Rolls be entred in a full fair Hand, with a Margent of an Inch at leaſt, and a convenient Diſtance at the Top, for the binding up the ſame; and at the Bottom, that the Writing be not rubbed out.

Paſ. 4 *Jac.* 2. Warrants of Attorney.

VII. Every Clerk and Attorney who ſhall enter any Cauſe of Record, ſhall enter in the Beginning of ſuch Cauſe the Warrants of Attorney for the Plaintiff and Defendant, otherwiſe the ſaid Roll ſhall not be affiled or received.

In

King's Bench.

In *Paſ.* 5 *W.* & *M.* *Paſ.* 9 *W.* 3. *Eaſter* 1657. *Mich.* 9 *W.* 3. *Trin.* 10 *W.* 3. } Rules were made for Bringing in the Rolls; but the Subſtance of ſuch of them as are not vacated, is compriſed in the following Rule.

When to be carried in.

VIII. Every Attorney ſhall bring all his Rolls into the Office fairly ingroſſed, by the Times limited by the former Rules; (*viz.*) The Rolls of *Trinity*, *Michaelmas*, and *Hillary* Terms, before the Eſſoin-Day of every ſubſequent Term, and the Rolls of *Eaſter* Term before the firſt Day of *Trinity* Term; and no Attorney at large, or other Perſon, ſhall take any Numbers, or file any Rolls, but the Clerks of the Chief Clerk only. *As to the taking Numbers or bringing in Rolls, there's now no Diſtinction uſed between Clerks and Attornies.* *Mic.* 5 *Annæ.*

IX. The Clerk of the Treaſury ſhall appoint one to attend in the Treaſury, that the Clerks may have Acceſs to, and ſearch the Rolls, according to ancient Cuſtom. *Trin.* 1656. Acceſs to the Rolls.

X. None *were* to have Acceſs to the Rolls, but Clerks or Filazers. *But now Attornies have the ſame Liberty.* *Hill.* 1657.

Rules.

Rules of Court. Vide Imparlance I, Motions I. Priſoners XII.

——— *To plead.* Vide Ejectment IV. Pleas I to V. Priſoners II, III.

——— *Of the King's Bench.* Vide Priſoners.

Trin. 14 Car. 2. I. NO Rule to be made by any Judge after three Days after Term. *See Title* Attornies X.

Secondary or Maſter. Vide Attornies XI, XII. Jury I.

Scire facias.

Trin. 8 W. 3. I. NO *Alias Scire facias* ſhall be iſſued 'till the firſt be returnable.

Sheriffs.

Vide Diſtringas Juratoꝝ. Jury II. Returns of Writs. Venire facias. Writs V, VI, X.

I. EVery Sheriff ſhall make a Deputy on Record, to receive Writs under the Penalties mentioned in the Stat. 23 *Hen.* 6. and the Sheriffs or their Deputies ſhall perſonally attend in *Weſtminſter-Hall* daily in Term-Time, to do their Offices. *Rules to the ſame Purpoſe as to the Attendance of Sheriffs were made in* Hill. 21 Car. 1. *and* Eaſter 23 Car. 1. *Eaſter* 15 *Car.* 2.

Summons. Vide Attornies X. Diſtr' Jur' I. Jury II. Venire I.

Superſedeas. Vide Eſcape I. Priſoners VI, XI, XXXIII, XXXIV.

Surrender. Vide Bail XXVII, &c.

Tales. Vide Diſtr' Jur' II. Jury. Venire Facias I.

Treaſury. Vide Rolls IX.

Trials.

Trials.

Vide Diſtringas Juratos. Jury. Notices I, II. Priſoners XI. Record of Niſi prius. Venire Facias.

Hill. 15 & 16 *Car.* 2. On old Iſſues.

I. ISSUES joined of any preceding Term, *were* to be tried within the firſt Week of Term. *But afterwards ordered that,*

Hill. 20 & 21 *Car.* 2.

II. Iſſues joined of a former Term, ſhall be tried the firſt or ſecond Sitting of every Term.

Hill. 15 & 16 *Car.* 2. When the Cauſe muſt be entred for Trial in *London* or *Middleſex*, or *Ne recipiatur* may be entred.

III. Unleſs Cauſes to be tried in *London* or *Middleſex* be entred with the chief Juſtice two Days before the Sitting whereon ſuch Cauſes are to be tried, the Marſhal may enter a *Ne recipiatur*, at the Inſtance of the Defendant or his Attorney.

Mic. 4 *Annæ*, 1705. Trial after *Ne recipiatur.*

IV. If the Defendant in any Action in *London* or *Middleſex* to be tried at the Sittings ſhall enter a *Ne recipiatur*, and by Reaſon thereof hinders the Plaintiff from trying his Cauſe that Sitting; then the ſame Plaintiff may try his Cauſe at the next Sitting after the Entring the ſaid *Ne recipiatur*, upon giving Notice during the firſt Sitting.

Venire

Venire Facias.

Vide Distr' Jur'. Jury. Trials. Writs.

I. ALL Sheriffs ſhall, upon the Return of every *Venire facias*, cauſe ſufficient Summons to be given to all Jurymen that are by them returned upon any Jury, for the preventing of Tales. *Eaſter* 1651.

Verdicts (ſpecial). Vide Demurrers. Paper Books.

Wales. Vide Writs X.

Warrants.

Vide Bail III. Rolls VII.

Judge's Warrant. Vide Eſcape I.

I. (IN Purſuance of the late Act of Parliament) the Attorney for the Defendant at the Time of his Appearing for ſuch Defendant, ſhall give the Plaintiff's *Mic.* 5 *Anne.* Of Attorney to ſue and defend.

King's Bench.

tiff's Attorney a Warrant of Attorney for ſuch Defendant; and at the Time of Delivering or Filing a Copy of the Declaration ſhall pay 4 *d.* for the ſaid Warrant, that the Plaintiff's Attorney may file it at the ſame Time he files or ought to file the Warrant of Attorney for the Plaintiff *; and if the Defendant's Attorney refuſes to pay for the Warrant aforeſaid, the Plaintiff's Attorney may ſign Judgment againſt the Defendant by Default.

* But now they are to be entred on the Roll. *Vide* Title Rolls VII.

Paſ. 15 *Car.* 2. Of Attorney to confeſs Judgment when bad.

II. No Bailiff or Sheriff's Officer ſhall preſume to exact or take from any Perſon, being in his Cuſtody by Arreſt, any Warrant to acknowledge Judgment, but in the Preſence of an Attorney for the Defendant, which Attorney ſhall then ſubſcribe his Name thereunto, which ſaid Warrant ſhall be produced when the ſaid Judgment ſhall be acknowledged, any Bailiff or Officer offending, to be ſeverely puniſhed. And no Attorney ſhall enter up Judgment on a Warrant of Attorney gotten from any Defendant under an Arreſt, otherwiſe than as aforeſaid.

Eaſter 15 *Car.* 2.

III. No Sheriff or Deputy ſhall grant Warrants before he receives the Writs, or deliver any Blank Warrants on Pain of Puniſhment and Fine.

Writs.

Vide Ac etiam. Certiorari. Distr' Juratorum. Error. Habeas Corpus. Original. Record of Nisi prius. Returns of Writs. Scire Facias. Sheriffs. Venire Facias.

I. THE Keeper of the Seal not to seal any *Latitat*, *Alias* or *Pluries Capias*, *Non Omittas*, *Elegit*, *Habeas Corpus*, *Procedendo*, *Certiorari*, or *Supersedeas*, of this Court, unless first signed with the Sign or Stamp appointed by the Court. *Trin.* 1656. What Writs ought to be signed before sealed.

II. The Keeper of the Seal not to seal any *Latitat*, *Habeas Corpus*, *Subpœna*, *Scire facias*, or other signable Writs, before signed. *Pas.* 15 *Car.* 2.

III. No *Capias ad Satisfaciendum*, *Testatum Capias ad Satisfaciend'*, *Fieri facias*, or *Testatum Fieri facias*, to be sealed before signed with the *Latitat* Sign, upon Pain of twenty Shillings. And the Clerk that keeps the *Latitat* Sign shall not sign such Writs, unless brought to him by the Clerk of the Office *, whose Name is to the Writ, or his known Servant; and no Fee is to be taken for Signing the same. *Easter* 1659. The Clerk or Attorney's Name to be subscribed. * Or Attorney.

IV. No Clerk of the Office to permit another to set his Name to any Writ that belongs to the Prothonotaries or their Clerks to make out, but such as shall be written *Hill.* 1657. Where one Clerk is not to suffer another to subscribe his Name.

King's Bench.

written by the Hand-writing of the ſaid Clerk, or his Servant. Forfeiture for the firſt Offence 20 *s.* and for the ſecond Expulſion.

Trin. 1656. Suing out *Alias* or *Pluries.*

V. Every Clerk, according to ancient Orders, ſhall, upon ſigning every Writ of *Alias* and *Pluries Capias* and *Non Omittas*, ſubſcribe under them the Term when the *Latitat* was ſued out, and in Term-time ſhall deliver a Note ſo ſubſcribed, and in the Vacation ſhall enter them on the Roll before the Writ be ſigned *. And the Prothonotaries ſhall ſummon all the Under-ſheriffs to bring and deliver them all *Latitats*, *Alias* and *Pluries Capias's* and *Non Omittas's*, that they may ſee if they be duly iſſued.

Examination if Writs be duly iſſued.

* This is never done now, the Method is to take a *Præcipe* or Note of the Names, of the County, the Plaintiff and Defendant, and the Return of the *Alias* or *Pluries*; and the Signer of the *Latitats* enters it on the Roll at his Leiſure; and if it be a Year after the Suing out the *Latitat*, then to ſue out another *Latitat*.

Trin. 4 *W.* & *M.*

And duly ſealed.

VI. The Officers of the Seal may inſpect, without paying any Fee all the Writs in the Cuſtody of the Under-ſheriffs, to ſee that they are duly ſealed.

Mic. 13 *Car.* 2. A *gratis* Writ ſealed for Clerks every Term.

VII. The Keeper of the Seal ſhall allow every Clerk of this Court, and his Clerk the Sealing of one Writ *gratis* at the End of every Term, in the Name of *Je vous prie.*

Hil. 25 *Car.* 2. Attendance at the Seal.

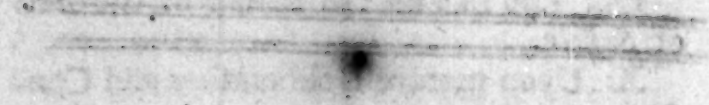
VIII. The Keeper of the Seal may permit one or more to attend the Seal on the Behalf of the King.

IX. The like on the Behalf of the Earl of *Suffolk*. *King's Bench. Pas. 32 Car. 2.*

X. Upon mature Deliberation and Conſideration here in Court; *It is ordered*, that all judicial Writs out of this Court, ſhall be executed by the Sheriff of each County in *Wales*, (as has been uſed in ancient Time) and in the like Manner as in *Engliſh* Counties. *Hill. 19 Jac. 2. Vide 2 Mod. Rep. 10.*

James Atkinson

A TA-



A TABLE OF

The Dates of the *King's Bench* Rules, and the Titles where-under they are placed.

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Eodem die Posteas II.

Die Martis prox' post Octabas Purificationis beatæ Mariæ, anno 3 Jac. *primi Regis.* Motions I. — Hill. 3 Jac. 1.

Die Lunæ proximo post Crastin' Ascensionis Dom. anno 5 Jacobi *primi Regis.* Money brought into Court I. — Easter 5 Jac. 1.

Die Mercurii prox' post quinq; Paschæ anno 6 Jac. *primi Regis.* Returns of Writs I. — Easter 6 Jac. 1.

Mic. 7 Jac. 1. *Die Veneris proximo post Mensem Sancti Michaelis, anno 7 Jac. primi Regis.* **Bail VII.**

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Hill. 14 Car. 1. *Die Sabbati proximo post octab. Purificationis anno 14 Caroli primi Regis.* **Prisoners VIII.**

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Trin. 20 Car. 1. *Die Lunæ proximo post tres septiman. Sanctæ Trin. anno 20 Car. primi Regis.* **Error III.**

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Easter 1658. *Monday* next after the Morrow of the Ascension of our Lord 1658. Paper Books II.

Easter 1659. *Friday* next after a Month of *Easter* 1659. Writs III.

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Mich. 13 Car. 2. *Die Jovis prox. post mens. Sancti Mich. anno* 13 Car. 2. *Regis.* Writs VII.

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Trin. 14 Car. 2. *Die Martis prox. post octab. Sanct. Trin. anno* 14 Car. 2. *Regis.* Ejectment I.

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Hill. 15 Car. 2. *Die Martis in crastin. Purificationis beatæ Mariæ* 15 Car. 2. *Regis.* Attornies II.

Die Jovis prox. post octab. Purificationis beatæ Mariæ, anno 15 Car. 2. *Regis.* Distr' Jur' II.

Easter 15 Car. 2. *Die Mercurii prox. post tres septiman. Pasch. anno* 15 Car. 2. *Regis.* Writs II.

Die Veneris in Cen. Ascen. Dom. anno 15 Car. 2. *Regis.* Warrants II.

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Hill. 15 & 16 Car. 2. Record of Nisi prius II. Trials I, III.

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Trin. 18 Car. 2. *Die Martis prox. poſt octab. Sanct. Trin. anno* 18 Car. 2. *Regis.* Ejectment IV.

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Trin. 20 Car. 2. *Die Lunæ prox. poſt tres ſept. Sanctæ Trin. anno* 20 Car. 2. *Regis.* Attornies XII.

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Trin. 22 Car. 2. *Trin.* 22 Car. 2. *Regis.* Bail II.

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Hill. 30 Car. 2. *Die Jovis prox. poſt octab. Sancti Hillarii, anno* 30 Car. 2. *Regis.* Filazers II.

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Eaſter 36 Car. 2. *Paſ.* 36 Car. 2. *Regis.* Error II.

Die

Die Mercurii prox. poſt tres ſeptiman. Sanctæ Trin. anno 1 Jacobi *ſecundi Regis.* **Paper Books II. Record or Nihil pius I. Rolls I.** — Trin. 1 Jac. 2.

Die Veneris prox. poſt menſ. Paſ. anno 2 Jac. 2. *Regis.* **Paper Books I.** — Easter 2 Jac. 2.

Die Lunæ prox. poſt octab. Sancti Hill. anno 2 Jac. 2. *Regis.* **Habeas Corpus III.** — Hill. 2 Jac. 2.

Hill. 3 & 4 Jac. 2. *Regis.* **Carts I.** — Hill. 3 & 4 Jac. 2.

Eodem Term. **Forma Pauperis I.**

Die Veneris prox. poſt menſ. Paſ. anno 4 Jac. 2. *Regis.* **Rolls VII.** — Easter 4 Jac. 2.

Die Veneris poſt craſtin. Purificationis beatæ Mariæ, anno 1 Will. & Mar. *Regis & Reginæ.* **Bail III.** — Hill. 1 W. & M.

Die Martis poſt menſ. Mich. anno 2 Will. & Mar. *Regis & Reginæ.* **Pleas VI.** — Mich. 2 W. & M.

Die Lunæ prox. poſt octab. Sanct. Trin. anno 4 Will. & Mar. *Regis & Reginæ.* **Bail IV, XXI. Habeas Corpus IV.** — Trin. 4 W. & M.

Die Sabbati prox. poſt octab. Sanctæ Trin. anno 4 Will. & Mar. *Regis & Reginæ.* **Bail V.**

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Die Veneris prox. poſt menſ. Paſc. anno 5 Will. & Mariæ *Regis & Reginæ.* **Priſoners I.** — Easter 5 W. & M.

Die Mercur. poſt quinq; ſept. Paſ. anno 5 Will. & Mar. **Rolls VIII.**

Die Jovis prox. poſt tres ſeptiman. Sancti Michaelis, anno 5 Will. & Mar. *Regis & Reginæ.* **Error VI, VII.** — Mich. 5 W. & M.

Hill. 5 W. & M. *Die Mercur. prox. poſt 15 Sancti Hil. anno 5 Will. & Mar.* **Habeas Corpus II.**

Hill. 6 W. & M. *Die Sabbati in quinden. Sancti Hil. anno 6 Will. & Mar.* **Fines I.**

Trin. 8 W. 3. *Die Veneris prox. poſt craſtin. Sanctæ Trin. anno 8 Will. 3. Regis.* **Scire facias I.**

Eodem die. **Jury I.**

Eaſter 9 W. 3. *Die Lunæ poſt craſtin. Aſcen. Dom. anno 9 Will. 3. Regis.* **Rolls VIII.**

Trin. 9 W. 3. *Die Mercurii prox. poſt tres ſept. Sanctæ Trin. anno 9 Will. 3. Regis.* **Priſoners IX.**

Mic. 9 W. 3. *Die Sabbati prox. poſt octab. Sancti Martini anno 9 Will. 3. Regis.* **Rolls VIII.**

Trin. 10 W. 3. *Die Veneris prox. poſt craſtin. Sanctæ Trin. anno 10 Will. 3. Regis.* **Rolls VIII.**

Hill. 10 W. 3. *Die Jovis prox. poſt octab. Sancti Hillarii, anno 10 Will. 3. Regis.* **Habeas Corpus VI.**

Eaſter 11 W. 3. *Die Mercurii prox. poſt quinq; ſeptiman. Paſch. anno 11 Will. 3. Regis.* **Demurrer III.**

Eodem die. **Bail IX.**

Hill. 11 W. 3. *Die Jovis poſt craſtin. Purificationis beatæ Mariæ, anno 11 Will. 3.* **Deeds I.**

Trin. 12 W. 3. *Trin. 12 Will. 3. 1700.* **Declarations II. Demurrer I. Iſſues I. Judgments II.**

Trin. 1 Ann. 1702. *Die Jovis prox poſt tres ſept. Sanctæ Trin. anno 1 Annæ Reginæ.* **Bail XXVII.**

Eodem die. **Bail XXVIII.**

Trin. 3 Ann. 1704. *Die Mercur. prox. poſt tres ſeptiman. Sanctæ Trin. 3 anno Annæ Reginæ.* **Bail XXIX. Habeas Corpus I.**

Die

Die Martis prox. poſt octab. Sancti Martini, anno quarto Annæ *Reginæ.* **Attornies I, &c.** Mic. 3 Annæ, 1704.

Die Martis prox. poſt octab. Sancti Martini, anno quarto Annæ *Reginæ.* **Trials IV.** Mic. 4 Annæ, 1705.

Die Sabbati prox. poſt menſ. Paſchæ, anno 5 Annæ *Reginæ.* **Imparlance I.** Eaſter 5 Ann. 1706.

Die Mercurii prox. poſt tres ſept. Sancti Michaelis, anno 5 Annæ *Reginæ.* **Warrants I.** Mic. 5 Annæ, 1706.

Mich. 5 Annæ, 1706. **Rolls IV, V, VIII.**

Die Jovis prox. poſt quinden. Sancti Martini, anno 5 Annæ *Reginæ.* **Pleas I.**

Die Mercur. prox. poſt octab. Sanctæ Trin. anno ſexto Annæ *Reginæ.* **Eſcape I.** Trin. 6 Annæ, 1707.

Die Veneris prox. poſt craſtin. animar. anno 8 Annæ *Reginæ.* **Baſil X.** Mic. 8 Annæ, 1709.

Die Martis prox. poſt craſtin. animar. anno 8 Annæ *Reginæ.* **Baſil XIX.**

Die Mercur. prox. poſt tres ſeptiman. Sanctæ Trin. anno 2 Georgii *Regis.* **Priſoners II.** Trin. 2 Geo. 1. 1716.

Eaſter 7 Geo. 1. 1721. **Return of Miſi prius IV.** Eaſter 7 Geo. 1. 1721.

Die Lunæ prox. poſt octab. Purificationis beatæ Mariæ, anno 8 Georgii *Regis.* **Notices II.** Hill. 8 Geo. 1. 1721.

Mich. 11 Geo. 1. 1724. **Attornies X.** Mic. 11 G. 1. 1724.

Die Mercur. prox. poſt tres ſeptiman. Sanctæ Trin. anno ſecundo Georgii 2. *Regis.* **Declarations V. Pleas V.** Trin. 1 Geo. 2. 1727.

Die Mercur. prox. poſt octab. Purificationis beatæ Mariæ, anno 2 Geo. 2. *Regis.* **Imparlance II. Pleas II.** Hill. 2 Geo. 2. 1728.

Same

Hill. 2 Geo. 2. 1728.	Same Term Notice fix'd up in the *King's Bench* Office.	Ac etiam II.
	The like.	Judgments I.
Easter 2 G. 2. 1729.	*Die Lunæ prox. post craſtin. Aſcenſ. Dom. anno* 2 Geo. 2. *Regis.*	Bail III.
Trin. 2 Geo. 2. 1729.	*Die Mercur. prox. post ſeptiman. Sanctæ Trin. anno* 2 Geo. 2. *Regis.*	Declarations III.
Mic. 3 Geo. 2. 1729.	*Friday* next after fifteen Days from St. *Martin*, 3 *Geo.* 2.	Priſoners XIII, &c.
Easter 5 G. 2. 1732.	*Easter*, 5 *Geo.* 2. 1732.	Bail XX.
	Same Term.	Bail XII.
Trin. 5 & 6 Geo. 2. 1732.	*Trin.* 5 & 6 *Geo.* 2. 1732.	Pleas III.
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FINIS.

THE

Rules of Practice

Common-plac'd;

WITH

REMARKS.

PART II. Containing

The Method of Proceeding in the Court of *Common Pleas* at *Weſtminſter*.

Exhibited in a View of the *Ancient* and *Modern* RULES and ORDERS of that COURT.

By an ATTORNEY at Law.

In the SAVOY:

Printed by E. and R. NUTT, and R. GOSLING, (Aſſigns of *E. Sayer*, Eſq;) for James Hodges at the *Looking-Glaſs* on *London-Bridge*.

MDCCXL.

Rules of Practice

TABLE

OF THE

RULES

Contained in the Rules of
the Common Pleas, digested
under

PART II. Containing

A Method of Proceeding in
Actions of Common Pleas, as

Practised

In the Courts of KING'S BENCH and ORDERS of
that COURT.

Printed in the Year MDCCXL.

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THE

THE RULES of PRACTICE Common-plac'd.

Affidavits.

Bail XVII, XX. Motions. Prisoners II, VIII.

I. THE Secondaries of the several Offices shall not file any Affidavits taken before any Person that is not commissioned to do the same; and to that end Books of the Names of all such Persons as are or shall be lawfully authorized to take Affidavits in the Country to be made use

Common Pleas. Trin. 2 W. & M. Taken before Commissioners.

Common Pleas.

Affidavits not to be read 'till filed.

uſe of in this Court, ſhall be delivered to and kept by the ſaid Secondaries, and no Affidvit ſhall be read in Court before the ſame be filed. *But all Affidavits ſworn in Town before a Judge, or in Court, may be read in Court before the Filing with the Secondary, and nothing paid for them.* 1 Inſtr. Cler. 502.

Hill. 11 *Geo.* 2. The like for Affidavits of Coſts on Taxation, *&c.*

II. All Affidavits to be produced, read, or made uſe of, before any of the Prothonotaries of this Court, upon Taxation of Coſts, and other Matters to them referred, be filed by the Secondaries in the reſpective Prothonotaries Offices.

Amendments. Vide **Declarations** VIII. **Demurrers** I. **Pleas** XII.

Appearances.

Vide **Bail. Bail-Bonds. Declarations** X. **Ejectment. Habeas Corpus. Imparlances** I. **Outlawries** IV. **Priſoners** II, III, IV, V, XIII. **Venue** IV. **Warrants. Writs** II.

Mich. 1654. Appearances to be duly entred.

I. APPEARANCES to be duly entred with the Prothonotaries or Filazers with whom the ſame ought to be entred (*a*); but if ſpecial Bail be requi-

(*a*) *Appearance muſt be entred in the Office the Filazer, or where the Proceſs iſſued, as upon a* Capias, *&c. with upon a Writ of Privilege with the Prothonotaries.*

rable in the Caſe, the Plaintiff not to be concluded by ſuch Appearances, if he inſiſts upon it. *Common Pleas.*

II. WHERE an Appearance is upon the original Writ, if the Defendant's Appearance be not entred of Record, the Defendant's Attorney to give his Hand to the Plaintiff's Attorney upon the Delivery of the Declaration, that he appeareth thereunto. *But Appearance muſt now be actually entred before Declaration delivered.* Vide poſt. *Same Rule.* When to give one's Hand for Appearance.

III. ANY Attorney of either Bench accepting a Warrant to appear, or ſubſcribing a Proceſs, Declaration or Warrant to appear, be compelled to cauſe Appearance or be liable to an Attachment, or be put out of the Roll, as the Caſe requires; and the Party not to be received to countermand ſuch Appearance after his Retainer. *Same Rule.* Attorney not appearing being retained, liable to an Attachment.

IV. EVERY Attorney retained to appear for any Defendant to any Writ iſſuing out of this Court, which is made by the reſpective Filazers, ſhall enter Appearance with the proper Filazer, and pay him 6*d.* Duty, and his Fee. *Now, the Duty is* 1 s. *and the Filazer's Fee* 1 s. *Eaſter* 24 *Car.* 2. Fee for Appearance and Duty.

V. AND no Defendant ſhall imparl, amend his Plea, or move to change the *Venue*, nor ſhall any Attorney receive or deliver any Declaration or Count, unleſs Appearance be firſt entred. And for the better diſcovering and puniſhing Offenders *Same Rule.* To be entred before Imparlance, Amendment of Plea, or Change of *Venue*, Delivering or receiving Declaration.

Common Pleas.

Filazers may ſearch the Doggets, &c. to ſee if any Proceedings where no Appearance is entred.

ders againſt this Order, the reſpective Filazers of this Court may at all convenient Times freely peruſe the Doggets and other Memorials of the Prothonotaries, to the End that in every Term they may deliver in Writing the Names of all Attornies of this Court, who ſhall not have entred the Appearances of ſuch Defendants who employ them with the proper Filazer, to the Lord Chief Juſtice or his Brethren (which they are hereby required diligently to do) that the ſaid Juſtices may without Remiſſneſs proceed againſt ſuch Offenders.

Hill. 6 *Geo.* 1. Former Rules confirmed.

VI. *FOR preventing Neglects in entring Appearances*, all the Rules heretofore made relating to the Premiſſes, ſhall be punctually obſerved, *and for the further enforcing them*, ordered that every Attorney of this Court accepting or ſubſcribing any Warrants to appear for any Defendant to any Writ iſſuing out of this Court, ſhall within (*a*) four Days after the Appearance-Day, to the Return of every ſuch Writ in *London* or *Middleſex*, and within eight Days after the Appearance-Day in every Writ in any other County, enter the Appearance of ſuch Defendant with the proper Officer (*b*). And if any

Time of appearing.

(*a*) *Per Stat.* 5 Geo. 2. c. 27. *Defendant has eight Days after the Return to appear in, and if he does not enter Appearance in that Time, the Plaintiff may enter it for him by Filing an Affidavit of the Service of the Proceſs with the proper Officer for entring the Appearance* (*if in the Common Pleas*) *whereupon the ſaid Officer will enter the Appearance, which is as effectual as if the Defendant himſelf had appeared.* (*b*) *Vide ante* I.

Attorney

Attorney accepting any Warrant to appear, or ſubſcribe any Proceſs or Warrant to appear, do not enter ſuch Appearance within the Time aforeſaid, he ſhall be liable to an Attachment, and ſhall not be diſcharged therefrom 'till he hath paid full Coſts to the Plaintiff, for the Proſecution on ſuch Attachment; and the Defendant when he appears, ſhall be compelled to plead, as of the Time when he ſhould have pleaded, if his Appearance had been duly entred. *Common Pleas.* Retainer.

Arreſts. Vide **Attachment of Privilege** II. **Priſoners** XIII.

Aſſociate. Vide **Poſteas.**

Attachment of Contempt. Vide **Appearance** III, VI. **Bail-Bonds** I. **Demurrers** III.

Attachment of Privilege.

I. THE Clerk of the Warrants at the End of every Term ſhall certify under his Hand to the Seal-Office the Names of thoſe Attornies that have diſcontinued, and that are forejudged, and put out of the Roll, and have not filed any Warrant of Attorney, nor continued their Names upon the Roll for above four Terms paſt, and that hereupon for ſuch Perſons no Writ of Privilege or Attachment be ſealed until they ſhall have *Trin. 29 Car. 2.* Writs of Privilege to be marked by the Clerk of the Warrants.

Common Pleas. a Certificate from the ſaid Clerk, or have their ſaid Writs by him ſigned, to teſtify that their Names are upon the Roll of Attornies, for which no Fee is to be paid. And no Attorney at any Time ſworn and entred upon the Roll, ſhall have his Privilege as a Clerk to any Prothonotary, but only as an Attorney according to ancient Cuſtom.

Trin. 9 W. 3. II. NO Attorney ſhall ſue forth in his own Name, or at his own Suit, any *Writ of Privilege*, *Attachment*, *proprium Capias*, or other ſuch Proceſs; and no Filazer, or Exigenter, Clerk, or other Officer or Miniſter of this Court ſhall ſign or allow ſuch Writs or Proceſs, and the Keeper of the Seal not to ſeal them, unleſs firſt ſtamped or ſigned by the Clerk of the Warrants, for which no Fee is to be paid, to ſhew that ſuch Perſon is an Attorney of this Court duly entred and continued on the Roll of Attornies; and every ſuch Writ or Proceſs, not ſtamped or ſigned as aforeſaid, ſhall be of no force to free ſuch Perſon from Arreſts, or to require Bail, or to give any Privilege whatſoever as an Attorney of this Court.

Hill. 11 Geo. 2. Note for the Office. III. EVERY Attorney of this Court, who ſhall ſue out any Attachment of Privilege againſt any Defendant, ſhall leave a *Præcipe* at the Prothonotary's Office, with the Defendants Names not exceeding four in the Whole, with the Return-day thereto, and the Day of Signing the ſame, together with the A-

gent's

gent's or Attorney's Name who ſues out the ſame; and every ſuch *Præcipe*, ſhall be entred by the Prothonotaries, upon a Remembrance-Roll in their reſpective Offices, to be kept for that Purpoſe, without Fee or Reward; and that the Prothonotaries do not ſign any Attachment of Privilege without ſuch *Præcipe* be left in the Office at the Time of Signing thereof.

Common Pleas.

Entry on Remembrance.

Attornies.

Vide Attachment of Privilege. Male Practice. Warrants.

I. ALL Attornies and Clerks of this Court ſhall procure themſelves to be admitted into one of the Inns of Court or Chancery, and take Chambers there, (if conveniently they may be had,) or elſe Lodgings in ſome convenient Place near the ſaid Inns, and leave Notice in Writing with the Butler or Porter of ſuch Inn whereof they are admitted, where their Lodgings or Habitations are; (except Inhabitants or Houſe-keepers in *London*, *Weſtminſter*, *Southwark*, or the Suburbs thereof, and the Liberty of the Tower of *London*, and *St. Katherine's* there, and ſworn Attornies of any Courts within the ſaid Cities, Towns and Liberties.

Mic. 3 *Annæ*, *By the twelve Judges, and again in Mic.* 4 *Annæ, by the Judges of C. B.*

Of being admitted in the Inns, Rules to this Effect *were made in Mic.* 1654. *Trin.* 29 *Car.* 2. *and Mic.* 36 *Car.* 2.

Common Pleas.

To produce a Certificate thereof when ſworn.

II. AND for the Future no Perſon ſhall be ſworn an Attorney, or admitted a Clerk of this Court, (except the Perſons before excepted,) unleſs ſo admitted, and ſhall produce at the Time of being ſworn or admitted as aforeſaid, a Certificate of his Admiſſion under the Hand of the Treaſurer or Principal of the Inn whereof he is admitted, (which they are to give without being paid for the ſame) which Certificate by every Attorney to be delivered to the Clerk of the Warrants, and by every Clerk of this Court to the Prothonotary in whoſe Office he ſhall be admitted, to be filed by the ſaid Officers before the Name of ſuch Attorney ſhall be entred on the Roll of Attornies, or ſuch Clerk admitted as aforeſaid; unto which Files of Certificates the reſpective Treaſurers or Principals of the ſaid Inns of Court and Chancery may reſort without paying for the ſame.

Not to leave one Inn 'till admitted of another.

III. NO Attorney or Clerk ſhall put himſelf out of the Society he is firſt admitted into, 'till admitted into another, and has delivered a Certificate of the Treaſurer or Principal of the other Society to the Treaſurer or Principal of the Society he was firſt of.

To be in Commons.

IV. AND the Attornies and Clerks ſo admitted ſhall be in Commons, according to the Orders of ſuch Society whereof they are admitted. Attornies offending againſt this Rule to be put out of

Common Pleas.

of the Roll, and Clerks offending to be diſcharged from their Offices, 'till they give Obedience to this Order; and the Prothonotary's Clerk of the Warrants, and all other Officers whom it may concern are to give Obedience to this Order, and ſee the ſame as to themſelves be duly obſerved.

Liſts of thoſe not ſo admitted.

V. THE reſpective Treaſurers, Principals of the Inns of Chancery, and the Antients, Rulers, and Governors of the ſame, ſhall procure a Liſt of ſuch Attornies and Clerks as are not ſo admitted; which Liſt they ſhall yearly in *Michaelmas* Term deliver to the Chief Juſtice, that the Offenders may be compelled to obey the ſame.

Of irregular Practiſers.

VI. ALSO the ſaid Treaſurers, Principals, Antients, Rulers and Governors, ſhall procure a Liſt of ſuch as Practice as Attornies or Clerks in any of the ſaid Courts who are not ſworn or admitted as aforeſaid, which Liſt to be delivered as above, that ſuch Offenders may be proceeded againſt in ſuch Manner as ſhall be thought fit.

Vide *Remarks on this Rule in the* King's Bench *Tit.* Attornies.

Mic. 1654. Who to be admitted an Attorney.

VII. NONE *was* to be admitted an Attorney of this Court, unleſs he *had* practiſed as a common Solicitor in this Court by the Space of five Years, or *had* ſerved five Years as a Clerk to ſome Judge, Serjeant at Law, practiſing Counſellor,

Vide Stat. 2 *Geo.* 2.

Common Pleas. ſellor, Attorney, Clerk or Officer of one of the Courts at *Weſtminſter*, unleſs his Maſter *died* or *gave* over his Practice, and *ſhould* be alſo upon Examination found of good Ability and Honeſty for ſuch Imployment; and that ſufficient Proof (to be put in Writing) *was* to be made of ſuch Service to the Prothonotary upon a Deſire of Admittance, and filed with the Clerk of the Warrants without Fee.

Same Term. VIII. Attornies diſmiſſed by one Court for a Miſdemeanor (after Certificate) not to be admitted to Practice in another, it being contrary to the Intent of the Law.

Same Term. The Manner of being admitted. IX. The Court once a Year in *Michaelmas* Term to nominate Twelve or more able and creditable Practiſers in the Court to continue for the Year enſuing, for theſe Purpoſes hereafter named, That they or any Six of them *ſhould* examine ſuch as *deſired* to be admitted Attornies, who *were* firſt to attend the Prothonotary with Proof of his Service, then *were* to repair to the Perſons appointed to examine Attornies, and being approved, *were* to be preſented to the Court with the Aſſignation of his Approbation, and then to be ſworn in open Court, unleſs ſome juſt Exception *was* made againſt him. *But ſee the Statute* 2 Geo. 2. *for the Regulation of Attornies and Solicitors.*

Same Rule. X. That they give Information to the Court from Time to Time, of Breaches of

of Orders and Miſcarriages of Officers, Attornies and Clerks. *Common Pleas.*

XI. Whoſoever would be admitted an Attorney, muſt apply, for that Purpoſe, before the laſt Week in Term. Per *Notice fix'd up in the Offices, Mic. 2 Geo. 2. Trin. 21 Car. 2.*

XII. EVERY Attorney of this Court, who at or ſince *Eaſter* Term 20 *Car.* 2. *had* withdrawn himſelf or any of his Cauſes from that Prothonotary's Office, where he was then ſettled, unto any other Office, *was* upon Notice of this Order to reduce himſelf to that Prothonotary's Office where he was then ſettled, and there continue and cauſe all his Buſineſs to be entred in that Office only, upon Pain of incurring the Diſpleaſure of this Court, and ſuch Penalties as this Court ſhould think fit to inflict for the firſt Offence, and for the ſecond Offence to be expelled the Court. And no Attorney of this Court admitted ſince the firſt Day of the ſaid *Eaſter* Term, or hereafter to be admitted, without Leave of this Court upon Cauſe ſhewn, ſhall ſhift from the Prothonotary's Office wherein he is ſworn, upon the like Penalties; and no Prothonotary of this Court ſhall hereafter permit any ſuch removing or ſhifting Attorney to enter any of his Cauſes in his Office contrary to this Order. *And to make this Rule more effectual it was,* Attornies to continue in that Prothonotary's Office wherein he was admitted.

XIII. ORDERED by the Conſent of the reſpective Prothonotaries, that they ſhall permit each other, by themſelves *Same Term.*

Common Pleas.

ſelves or Clerks, to ſearch each other's Doggets, and Judgment-Books, at ſeaſonable and convenient Times, for the better Diſcovery and Prevention of ſuch Abuſes for the Future. And if it hereafter happen that any Buſineſs be entred in any Prothonotary's Office contrary to the aforeſaid Rule, then ſuch Prothonotary ſhall, upon Notice and Requeſt made to him, repay the Fees received for doing ſuch Buſineſs to ſuch Prothonotary to whom ſuch Fees did of Right belong.

Mic. 1654. To appear in Court.

XIV. ALL Officers and Attornies of this Court to appear in Perſon in Court, upon or before the fourteenth Day of *Michaelmas* Term; and upon or before the ſeventh Day of every other Term, upon Pain of 10*s.* for the firſt Default, 20*s.* for the Second, and being put out of the Roll for the Third; the Appearance to be entred with the Clerk of the Warrants, and the Defaulters to be delivered to the Court upon Oath (if required) within three Days after the Time required for Appearance.

Hill. 14 & 15 *Car.* 2. *Eaſt.* 1 *Jac.* 2.

Theſe Rules recite that above, and further confirm the Obſervance of it without any Addition in this Reſpect.

Mic. 1654. Who to practice as an Attorney.

XV. COMMON Solicitors not to practice in this Court unleſs admitted Attornies of either Bench; but not to extend to the Managing of Evidence at a Trial, nor to private Solicitors or Servants of

of Corporations, or other Perſons in the Caſes of their Maſters. *Common Pleas.*

XVI. NO Under-Sheriff or Bailiff of Sheriffs or Liberties to be admitted during ſuch their Employment to practice as Attornies, under Pain of Expulſion from the Employment of an Attorney, and not to be re-admitted. *Same Term.*

XVII. NO Officer of this Court to make any Proceſs or Entry, in the Name of any Perſon not ſworn an Attorney, nor on the Roll of Attornies, or put out of the Roll, either as a Diſcontinuer, or for a Miſdemeanor, or by Rule of Court, after Notice thereof given to ſuch Officer by the Clerk of the Warrants. *Hill.* 14 & 15 *Car.* 2. *Paſ.* 1 *Jac.* 2. When Officers of the Court are not to permit any Proceſs or Entry to be made.

XVIII. NO Perſon to practice in another's Name, nor any Attorney knowingly permit another to practice in his Name; upon Pain of being put out of the Roll, excepting in Warrants of Attorney for Common Recoveries. *By a later Rule.* *Mic.* 1654. Not to practice in another's Name, and Attornies permitting others to practice in their Names.

XIX. IT is forbidden by the Juſtices of this Court, upon Pain of Expulſion, that no Attorney of this Court permit any other to practice in his Name. *Hill.* 14 & 15 *Car.* 2. *Paſ.* 1 *Jac.* 2.

XX. FOR the Prevention of Maintenance and Brocage, no Attorney to be Leſſee in an Ejectment, nor Bail for a Defendant in this Court in any Action. *Mic.* 1654. Not to be Leſſee in Ejectment or Bail in any Action.

XXI. NO Attorney of this, or any other Court, or any Perſon practiſing as ſuch, ſhall be Bail in any Suit or Action depending in this Court. *Mic.* 6 *Geo.* 2. 1732.

XXII. SUCH

Common Pleas.

Mic. 1654. When to loſe their Privilege.

XXII. SUCH Attornies as have not been attending their Imployment in this Court by the Space of one Year laſt paſt, unleſs hindred by Sickneſs, ſhall not be allowed their Privilege.

Same Term. No Change of an Attorney without Rule, *&c.*

XXIII. NO Perſon without Rule of Court, Order of the Judge or Prothonotary, and Notice to the adverſe Party or his Attorney, ſhall change or ſhift his Attorney; and ſuch Attorney newly coming in, to take Notice at his Peril of the Rules whereunto the former Attorney was liable had he continued.

In Trinity Term 13 G. 2. *the Court of* C. B. *ſet aſide the Proceedings in* Ireſon *and* Roſewell, *becauſe the Country Attorney changed his Agent in* London *without Leave of the Court; the firſt Agent only ſued out the* Capias, *the Attorney himſelf coming to Town filed the Declaration, and the ſecond Agent proceeded to Judgment; even the Filing the Declaration by the Country Attorney was held irregular, he having employed an Agent to ſue out the Writ.*

Same Rule. Retainer.

XXIV. A Retainer of an Attorney of the Common Pleas, by an Attorney of the Upper Bench, *& è converſo*, to be a ſufficient Excuſe to the Attorney ſo retained, acting according to ſuch Retainer, and the Attorney ſo retaining without Warrant from the Party to be ſubject to the Puniſhment.

Trin. 21 *Car.* 2. Proceeding againſt them.

XXV. NO Bill ſhall be filed againſt any Officer, Attorney, Clerk or Miniſter of this Court to be called in Court, in order to a Forejudger, until the ſaid Bill be actually entred upon Record, and the N° of the Roll put upon the ſaid Bill.

When the Bill is ingroſſed give it to one of the Cryers in Court, and he will call the Defendant, and then you muſt file it and give a Rule for the Defendant to appear; and likewiſe by the next Rule

XXVI.

Common Pleas.
Hill. 11 *Geo.* 2.
Proceedings againſt them.

XXVI. WHERE any Bill ſhall be filed againſt an Attorney of this Court, no Forejudger ſhall be entred againſt him, for Want of Appearance, if the Action be laid in *London* and *Middleſex*, and ſuch Attorney reſide within twenty Miles of *London*, until four Days after Notice in Writing of Filing ſuch Bill be given to ſuch Attorney, or his Agent, or left at his uſual Place of Abode, and a Rule given for ſuch Appearance as uſual; and if ſuch Attorney reſides above twenty Miles from *London*, or the Action be laid in any other County than *London* or *Middleſex*, then no Forejudger ſhall be entred 'till eight Days after ſuch Notice ſhall be given in ſuch Manner as aforeſaid, and a Rule to appear as aforeſaid; the ſaid Days to be excluſive of the Day of giving ſuch Notice.

Motion againſt the Secondary of the Compter, for not diſcharging an Attorney on a Writ of Privilege without Bail. Per **Lord North**, *If an Attorney be ſued by Proceſs out of an inferior Court, a Writ of* **Privilege** *ſhould be allowed, and he thereupon diſcharged; but if by Proceſs of a ſuperior Court, he muſt bring a* **Superſedeas**, *becauſe a ſuperior Court is of equal Nature with the Writ of Privilege.* 1 Inſtr. Cler. 510. 7th Edit.

Attorney General. Vide **Recoveries** IV.

Bail.

Bail.

Vide Attornies XX, XXI. Error. Habeas Corpus. Outlawries V. Priſoners VIII.

Bail (ſpecial) on Cepi Corpus, &c.

Mic. 1654. Where ſpecial Bail is required. On Summons, Attachment, Diſtreſs, *Superſedeas*, or Exigent.

I. IF the Defendant appears upon the Summons, Attachment, or Diſtreſs, or by *Superſedeas quia improvidè*, or doth truly render himſelf upon the Exigent, no Bail is requirable.

Same Rule. In Cauſes of Removal.

II. IN all Cauſes of Removal, be it by *Habeas Corpus*, *Privilege* or *Certiorari*, ſpecial Bail ought to be given.

Same Rule. When on *Cepi Corpus* in Debt, Detinue, Treſpaſs, or Caſe.

III. IN Cauſes by *Cepi Corpus*, be it Debt, Detinue, Treſpaſs for Goods, Action upon the Caſe (except Slander) if the Debt or Damages amount to 20 *l.* ſpecial Bail is to be given, except it be againſt an Heir, Executor or Adminiſtrator.

Same Rule. Covenant.

IV. IN Covenant, becauſe the Damages are uncertain 'till Declaration, Bail at Diſcretion.

V. IN Battery, Conſpiracy, Falſe Impriſonment, no ſpecial Bail of Courſe without ſpecial Motion and Order. *Common Pleas.* *Same Rule.* Battery, Conſpiracy, Falſe Impriſonment.

VI. IN Slander no ſpecial Bail, except in Slander of Title, wherein to be left to the Diſcretion of the Judges. *Same Rule.* Slander.

VII. IN Privilege, other than for Fees and Diſburſements, as an Attorney of this Court, Bail at Diſcretion of the Court. In ſuch Caſe where in a Suit by a common Perſon, ſpecial Bail is not required. *Vide Title* Ac etiam *in the Firſt Part.* *Same Rule.* Privilege.

VIII. NO Attorney of this Court or any Perſon practiſing as ſuch, ſhall be Bail in any Suit or Action depending in this Court. *Mic.* 6 *Geo.* 2. Who may not be Bail.

IX. NO Sheriff's Officer, Bailiff, or other Perſon concerned in the Execution of Proceſs, ſhall be permitted or ſuffered to become Bail in any Action or Suit depending in this Court. *Same Term.*

X. THE Defendant or his Attorney, who ſhall hereafter put in Bail to any *Capias ad Reſpondendum*, or other Filazer's Writ ſhall duly have Recourſe to the proper Filazer in whoſe Office ſuch Bail ought to be entred, and ſhall with him or his Clerk either come into Court, or with him or his Clerk, attend one of the Judges thereof to take the ſame; and in Caſe any Filazer's Bail ſhall be taken contrary *Trin.* 1 *W.* & *M.* Of the Filazer's Attendance to put in Bail.

Common Pleas.

(*a*) *See the next Paragraph, and* § XIV, &c.

trary to this Order (except it be taken in the Circuit, (*a*) which if delivered to the proper Filazer by the firſt Day of the ſucceeding Term, that ſo he may have Time to enter it upon Record, ſhall be as good as ſuch as are taken, as is above ordered) this Court will puniſh ſuch Contempt, and in order to make the Attorney for the Defendant vigilant in his Client's Buſineſs, this Court doth declare, that where any Filazer's Bail is taken without the proper Filazer, it is as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no ſuch Bail were ever put in: And that before the Defendant ſhall be admitted to plead to the original Action, he ſhall pay full Coſts to the Plaintiff.

Hill. 8 *Geo.* 2. *Notice fixed up in the Judges Chambers.* Or in the Abſence of the Filazer.

But now,

XI. BAILS may be taken (in the Abſence of the Filazer) on ſtamped Parchment, upon bringing a true Abſtract of the Writ to the Judge's Chambers.

Mic. 6 *Geo.* 2. Excepting againſt Bail.

XII. IN all Caſes wherein Bail-Bonds ſhall be taken, and the ſame Bail is put in above, the Plaintiff may except againſt ſuch Bail.

Trin. 3 & 4 *Geo.* 2. Perfecting Bail.

XIII. IF ſpecial Bail put in by the Defendant be excepted to, the Defendant ſhall perfect his Bail within four Days after Exception taken; in Default whereof the Plaintiff ſhall be at Liberty to proceed upon the Bail-Bond.

Common Pleas.

Of Bail taken before Commiſſioners in the Country.

Purſuant to the Stat' of 4 & 5 W. & M. c. 4.

Paſ. 5 W. & M. Of taking Bail.

XIV. *Firſt*, BEFORE any Bail be taken by Virtue of the ſaid Act, a true Copy of the Writ on Parchment ſhall be brought to the Commiſſioner before whom ſuch Bail is to be taken; and the Recognizance or Bail-piece ſhall be fairly drawn and ingroſſed on the ſaid Copy, in this or the like Form as the Caſe ſhall be, *viz.*

Form of the Bail-piece.

A. B. Attorney for the Defendant. } *The Bail are* John Denn *of* B. *in the Pariſh of* S. *in the County of* Y. *Gent. and* Richard Fenn *of the ſame, Gent.*

The Party himſelf in 20 l.
Each of the Bail in 10 l.

Taken and acknowledged the 10*th Day of* March *in the Year of our Lord* 1692. } de bene eſſe.

Before me

A. B. *a Commiſſioner.*

XV. IF the Defendant be not preſent, then the Bail are uſually bound in double

Common Pleas. the Sum in the Writ, otherwiſe only ſingle.

XVI. THE Condition of which ſaid Recognizance ſhall be to this Effect:

Condition of the Recognizance.

YOU (naming the Defendant if preſent) *do acknowledge to owe to the Plaintiff* 20 l. *and you* (naming the Bail) *do ſeverally acknowledge to owe unto the ſame Perſon the Sum of* 10 l. *a-piece, to be levied upon your ſeveral Goods and Chattels, Lands and Tenements, upon Condition, that if the Defendant be condemned in the ſaid Action, he ſhall pay the Condemnation-money, or render himſelf a Priſoner to the* Fleet *for the ſame; and if he fail ſo to do, you* (naming the Bail) *do undertake to do it for him.*

N. B. *Notice of Bail being put in muſt be given,* vide poſt.

Affidavit of taking it.

XVII. *Secondly,* AFFIDAVIT of the due Taking ſuch Bail ſhall be made either before ſome Judge of the Common Pleas to whom the Bail ſhall be tranſmitted, or before ſome Perſon who ſhall have Power to take Affidavits in Matters and Cauſes depending in the ſaid Court. *If ſworn before a Commiſſioner, the Affidavit muſt be writ on ſtamp'd Paper and annexed to the Bail-piece.*

Tranſmitting Bail.

XVIII. *Thirdly,* ALL Bails taken by any Commiſſioner within the Diſtance of forty Miles from *London* and *Weſtminſter,* ſhall be tranſmitted to one of the Juſtices of

of the ſaid Court within ten Days after the Taking thereof; and if taken above the Diſtance of forty Miles, it ſhall be tranſmitted within twenty Days after the Taking thereof, unleſs all the ſaid Juſtices ſhall be in their Circuits, and then as ſoon as any one of them ſhall return to *London*. *A Rule was made to the ſame Effect as to tranſmitting Bail, in* Hill. 6 Geo. 1. *with an Addition concerning filing*, ut poſtea §. XXI. *Common Pleas.*

XIX. *Fourthly*, EVERY Commiſſioner is to have a Book kept purpoſely for entering the Names of the Defendant and his Bail, and the Plaintiff, as it is in the Bail-piece, and the Time of Taking thereof, and the Name of him by whom ſuch Bail ſhall be tranſmitted. Commiſſioners Book.

XX. *Fifthly*, THE Plaintiff's Attorney ſhall be at Liberty to repair to the Commiſſioner's Book for the Names of the Bail, that they may inquire after the Sufficiency of them, and if they are found inſufficient, they may except againſt them within twenty Days after the ſaid Bail is tranſmitted, and Notice to the Plaintiff or his Attorney of the Taking thereof: And in that Caſe the Defendant muſt either put in better Bail, or the Cognizors muſt juſtify themſelves in open Court, either by Affidavit taken before ſuch Commiſſioner that took the ſaid Bail, or by Oath made in Court or before one of the Judges of the ſaid Court. *Vide* §. *for the Time of perfecting Bail.* Excepting againſt Bail. Of putting in better, or adding new Bail.

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Hill. 6 *Geo.* 1. Of filing Bail when tranſmitted.

XXI. AFTER Bail is tranſmitted (*as before*, §. XVIII.) it ſhall be forthwith delivered to, and filed with the proper Officer to be entred upon a Record, or otherwiſe it ſhall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no ſuch Bail were ever put in; and the Defendant, in Caſe he be admiſſible to plead to the original Action, ſhall not be admitted ſo to do, unleſs he firſt pay the full Coſts to the Plaintiff for the Proſecution on the Bail-Bond; and plead as of the Time when the Bail ſhould have been duly entred.

Mic. 13 *Geo.* 1.

XXII. ALL Bails taken before Commiſſioners in the Country, and tranſmitted to and allowed by one of the Juſtices of this Court, ſhall be delivered to the Clerk of the Judge as ſhall allow the ſaid Bail, which Clerk ſhall take the Fees due to the proper Officer for the Entry thereof, and ſhall forthwith deliver the ſaid Bail to be filed and pay the ſaid Fees to ſuch proper Officer. AND every Defendant's Attorney ſhall give Notice to the Plaintiff's Attorney of the Taking ſuch Bail, within four Days after the Caption thereof.

Notice of Bail put in before Commiſſioners.

This Rule recites the Rule of Hill. 6 Geo. 1. *before-mentioned, and adds further that,*

Mic. 6 *Geo.* 2.

XXIII. ALL Bails taken before any Commiſſioner in the Country ſhall be tranſmitted and filed with the proper Officer,

Officer, according to the ſaid Rule, and no ſuch Bail ſhall be received or filed, unleſs tranſmitted within the reſpective Times appointed by the ſaid Rule without Leave of this Court. *Common Pleas.*

XXIV. THE Principal rendring himſelf at any Time after Bail put in, and before or upon the Day of Appearance of the *Scire facias* returned *Scire feci*, or of the ſecond *Scire facias* returned *nihil*, or in Caſe there ſhall be an Action of Debt brought upon the Recognizance againſt the Bail, than if the Principal ſhall render himſelf upon or before the Proceſs returned ſerved, no further Proceedings to be againſt the Bail. *Mic.* 1654. When the Principal may be ſurrender'd in Diſcharge of Bail.

Bail-Bonds.

Vide Bail XXI.

I. ACCORDING to the Statute of the 23d of *Hen.* the 6th, a Priſoner taken upon a *Capias* not diſcharged 'till he hath given a Bond to appear, unleſs the Plaintiff or his Attorney ſhall conſent to take an Appearance without Bail. And in ſuch Caſe the Warrant of Attorney to appear, to be ſubſcribed or accepted by the Defendant's Attorney, and ſuch Warrant not to be revoked, and an Attachment to be granted againſt the Bailiff offending herein, or againſt the Attorney refuſing to appear or procure *Mic.* 1654. Of giving Bail-Bonds.

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an Appearance, having ſo ſubſcribed or accepted.

Hill. 9 *Ann.* When Bail-Bonds may be put in Suit.

II. NO Bail-Bond taken in *London* or *Middleſex*, and by Virtue of any Proceſs iſſuing out of this Court, ſhall be put in Suit 'till after four Days, excluſive of the Appearance-Day of every Return, upon which the ſaid Proceſs ſhall be returnable, and no Bail-Bond taken in any other City or County, by Virtue of ſuch Proceſs ſhall be put in Suit 'till after eight Days excluſive of the Appearance-Day of every ſuch Return, upon Pain of having all Proceedings made upon ſuch Bail-Bonds to the contrary thereof (upon Motion made to this Court for that Purpoſe) ſet aſide with Coſts.

If the Bail-Bond be regularly aſſigned, and put in Suit, yet the Proceedings thereon may be ſet aſide upon Payment of Coſts on Application before Rule to plead be out, by Motion of the Court, or Summons from a Judge (the Defendant having put in, and juſtified Bail in the original Action, and given Notice thereof to the Plaintiff's Attorney,) in Caſe the Plaintiff be not thereby delayed of Trial, or of obtaining Judgment againſt the Principal.

Note; *The ſame Perſons that were Bail for the Appearance of the Defendant, (notwithſtanding their being ſued on the Bail-Bond,) may be Bail to the original Action.*

Bailiffs. Vide **Attornies** XVI.
Bail IX. **Outlawries.**

Bill againſt an Attorney. Vide **Attorney** XXV.

Books. Vide **Demurrers.**

Bringing

Bringing in the Body.

Vide **Habeas Corpus III.**

I. ALL Rules for the Sheriff to bring in the Body of a Priſoner taken upon any Proceſs which ſhall iſſue, or which ought to iſſue out of the Office of any Filazer, ſhall be for the Future given by the Filazer from whom ſuch Proceſs iſſued, or ought to have iſſued, and by none other. *Trin. 2 W. & M.* By whom Rules to bring in the Body ſhall be granted.

Capiaturs. Vide **Judgments XI.**

Caveats. Vide **Fines IV, V.**

Certificates. Vide **Attornies II.**

Certiorari.

Vide **Bail II.**

I. ALL Writs of *Certiorari* iſſuing out of this Court, directed to the Court of Pleas of the Biſhop of *Ely* ſhall be indorſed by a Judge of this Court, with the Words * *Iſle of Ely*, and the Name of the ſaid Judge, before it ſhall *Paſ. 13 Will. 3.* * *Inſula Eliens.*

Common Pleas. be ſealed; and if any Writ of *Certiorari* ſhall iſſue without ſuch Indorſement, it ſhall not be allowed by the Judge of the Court of *Ely* aforeſaid.

Clerks.

Vide Attachment of Privilege I. Attornies.

Mich. 1654. I. EVERY Prothonotary's Clerk to apply himſelf from henceforth to one Prothonotary's Office only, and to give his Attendance and make his Entries in that Prothonotary's Office.

Clerks of the Aſſize. Vide Poſteas.

Clerk of the Errors. Vide Error.

Clerk of the Eſſoins. Vide Rolls.

Clerk of the Judgments. Vide Judgments IX. Poſteas II.

Clerk of the King's Silver. Vide Fines.

Clerk of the Treaſury. Vide Iſſues. Record of Niſi prius. Recoveries.

Clerk of the Warrants. Vide Attachment of Privilege I, II. Attornies

nies IV, XIV, XVII. Posteas II. Common Pleas
Record of Nisi prius. Rolls.

Commissioners. Vide Affidavits. Bail XIV, &c. Fines II.

Commitment. Vide Habeas Corpus. Prisoners.

Costs. Vide Affidavits II. Appearances VI. Declarations VIII. Demurrers. Habeas Corpus XXIV. Notices VI. Outlawries X, &c.

Countermands. Vide Notices XIV.

Custos Brevium. Vide Recoveries III.

Declarations.

Vide Appearances V. Ejectment. Habeas Corpus VI, XX, &c. Imparlances III. Non pros'. Original I. Outlawries XV, &c. Prisoners. Rules. Venue II.

I. FOR *avoiding long and unnecessary Repetitions of the original Writ in Actions upon the Case and personal Actions upon Penal Statutes*, DECLARATIONS in Actions of Trespass upon the Case, or personal Actions upon any general Statute, *Mic.* 1654. Repetition.

Common Pleas.
Caſe.
Perſonal Actions upon Statutes.

tute, namely, Hue and Cry, Monopolies, and for Suits in the Admiralty, and ſuch like, other than Debt, ſhall not repeat the original Writ, but only the Nature of the Action, *viz. A. B.* was attached to anſwer *C. D.* in a Plea of Treſpaſs upon the Caſe, or in a Plea of Treſpaſs and Contempt againſt the Form of the Statute.

Same Rule.
Unneceſſary Length.
Quare clauſum fregit.

II. DECLARATIONS upon an Original, or Bill, *Quare clauſum fregit*, may mention the Place certainly, and ſo prevent the Uſe and Neceſſity of the common Bar and new Aſſignment.

Same Rule.

III. Unneceſſary Length of Declarations to be forborn, and in order thereunto,

Same Rule.
In Covenant.

IV. IN Actions of Covenant not to repeat more of the Declaration than is neceſſary for the Aſſignment of the Breach, and not to repeat the Covenant in the Concluſion.

Ditto.
In Slander.

V. IN Actions of Slander long Preambles to be forborn, and no more Inducement than what is neceſſary for the Maintenance of the Action, when it requires a ſpecial Inducement or *Colloquium.*

Ditto.
On Statutes.

VI. IN Actions upon general Statutes, the Declaration not to repeat the Statute, but to conclude againſt the Form of the Statute in ſuch Caſe made and provided; as in Caſe of Debt, upon the Stat. of 2 *E.* 6. for Tithes, the 32 *H.* 8.

for

for Maintenance, and 21 *Jac.* 1. of Monopoly. *Common Pleas.*

VII. ACTIONS of Debt upon a Judgment had in the Courts at *Weſtminſter*, to recite only the Judgment. But if a Judgment had by or againſt an Executor or Adminiſtrator, Debt thereupon to repeat the Declaration and Judgment. *Ditto.* Of Debt on Judgments.

VIII. BEFORE the Declaration actually entered the Plaintiff may amend it, paying coſts or giving an Imparlance at his Election, by the Order of a Judge of the Court or Prothonotary: But after it is entred, if the Amendment be but a ſmall Matter that doth not deface the Roll; yet before Iſſue or Demurrer entred it may be amended by Rule of Court upon Payment of Coſts, and Liberty to plead, with a new or further Imparlance. *Same Rule.* Of amending Declarations.

The uſual Method of amending Declarations is by Summons before a Judge, for the Defendant, his Attorney or Agent, to ſhew cauſe why the Defendant ſhould amend his Declaration by inſerting or ſtriking out ſuch and ſuch Words, or the Words mentioned in a Paper thereunto annexed. And upon hearing the Attornies on both Sides (if a reaſonable Objection be not made) the Judge will make an Order, that (upon Payment of the Coſts) the Plaintiff may make ſuch Amendment.

IX. IF the Plaintiff's Attorney or Clerk delivers a Copy *of a Declaration* to the Defendant's Attorney or Clerk materially varying from the original Declaration, *Mic.* 1654. Of Declaration varying from the Original.

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tion, the Diſadvantage thereof not to be caſt upon the Defendant, but on the Plaintiff whoſe Attorney is paid for it.

Paſ. 24 Car. 2. Of delivering and receiving Declarations.

X. NO Attorney of this Court ſhall receive any Declaration, unleſs an Appearance be firſt entred with the Filazer, (under the Penalty mentioned in an Act, intituled, *An Act for laying Impoſitions upon Proceedings in Law*). And no Attorney ſhall deliver or cauſe to be delivered any Declaration or Count to the Defendant's or Tenant's Attorney, or to any Perſon for him, until the Appearance (to warrant ſuch Delivery) be duly entred with the proper Filazer, under the Penalty to be expelled the Court. Vide *Title* **Appearances** for *other Parts of this Rule.*

Appearance to be entred before delivered or received.

Hill. 9 Ann. When Declarations on ſpecial Writs to be delivered or filed.

XI. ALL Declarations to be delivered or left in the Office upon ſpecial Writs in the ſame Term the ſaid Writs ſhall be returnable, ſhall be delivered or left in the Office at leaſt four Days before the End of every Term, excluſive of the Day of the Delivery thereof, or of leaving the ſame in the Office.

Mic. 1 Geo. 2. Of filing Declaration where Appearance is entred *per* Stat'.

XII. IN all Caſes where a Copy of the Proceſs of this Court is ſerved upon any Defendant or Defendants, and an Appearance is entred for ſuch Defendant or Defendants, by the Plaintiff's Attorney, purſuant to the * *Stat'*, the Plaintiff's Attorney in ſuch Caſe ſhall leave a Copy of the Declaration in the Office, and give Notice thereof to the Defendant or Defendants, by delivering an *Engliſh* Notice, written in

* 12 G. 1. c. 29.

Notice of Declaration.

Secretary

Secretary Hand, to ſuch Defendant or Defendants, or by leaving the ſame at the laſt or moſt uſual Place of Abode of ſuch Defendant or Defendants ſignifying the Nature of the Action, at whoſe Suit it is proſecuted, and in whoſe Office ſuch Declaration is left: And in Caſe of ſpecial Writs returnable the firſt Return of *Hill.* and *Trinity* Terms, and the firſt or ſecond of *Eaſter* and *Michaelmas*, ſuch Defendant or Defendants ſhould take Notice, that unleſs ſuch Defendant or Defendants plead to ſuch Action * within four Days after the Appearance-Day of the Return of ſuch Writ; and in Caſe of a common *Capias*, or any † *other* ſpecial Writ, within the firſt four Days of the next Term, Judgment will be enter'd againſt ſuch Defendant or Defendants by Default. And from the Time of giving ſuch Notice, Declaration ſhall be deemed well delivered to ſuch Defendant or Defendants, and not otherwiſe. And in Caſe ſuch Defendant or Defendants after ſuch Notice given do not plead by the Time the Rules for Pleading are out, the Plaintiff may ſign Judgment (a Rule to plead being firſt given,) without any other or further calling for a Plea, and thereon give Notice of executing his *Writ of Inquiry*, either by delivering Notice in Writing to ſuch Defendant or Defendants, or by leaving the ſame at the laſt or moſt uſual Place of Abode of ſuch Defendant or Defendants; which ſhall be a ſufficient Notice

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* *Vide the next Rule.*

† *i. e.* Any ſpecial Writ not returnable as before-mentioned.

Notice of Inquiry.

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tice to ſuch Defendant or Defendants of the Time of executing ſuch Writ of Inquiry. *The Rule made laſt Trinity Term*, to eſtabliſh the Practice of this Court upon the aforeſaid Statute diſcharged.

Mic. 3 *Geo.* 2. Declaration delivered on Proceſs returnable the firſt or ſecond Return.

XIII. UPON all Proceſs of this Court returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and Defendant lives within twenty Miles of *London*, the Defendant ſhall plead within four Days after Declaration delivered without any Imparlance; and ſuch Declaration may be delivered *De bene eſſe*. And in Caſe the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, the Defendant ſhall plead within eight Days after the Declaration delivered, without any Imparlance; and in Default of Pleading, as aforeſaid, the Plaintiff may ſign his Judgment.

And in further Confirmation of the above Rule afterwards ordered, that notwithſtanding any Thing to the contrary in the Rule made in Michaelmas 1 Geo. 2. (*See before* § XII.)

Eaſter 3 *Geo.* 2.

XIV. ALL Declarations in *London* or *Middleſex* delivered purſuant to the Rule of this Court made laſt (*a*) *Michaelmas* Term, on Proceſs returnable the firſt or ſecond Return of any Term, where the Defendant lives within twenty Miles of *London*, ſhall be delivered with Notice, that the Defendant or Defen-

(*a*) *Vide* the Rule § XIII.

dants plead to such Action within four Days after such Declaration delivered; and all Declarations where the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, shall be delivered with Notice to plead within eight Days after such Declaration delivered. *Common Pleas.*

'Tis customary since this Rule was made to put the above-mentioned Notice on the Back of the Declaration thus, "The De- "fendant is to plead in four (*or eight*) "Days," *as the Case requires.*

XV. ALL Declarations shall be delivered before nine o'Clock in the Evening. *The Rule made* Mic. 8 Geo. 2. *discharged.* *Easter* 10 G. 2. Before what Hour to be delivered.

XVI. DECLARATIONS, *&c.* shall be demanded by a Note in Writing. Per *Notice fix'd up in the Prothonotaries Offices. Mic.* 1 *Geo.* 2. Demanding Declarations.

Deeds. Vide **Judgments** II. **Dyer. Verdicts** II.

Demands. Vide **Declarations** XVI. **Notices** XV. **Pleas** IX, &c.

Demurrers.

Demurrers.

Vide Judgments IX. Notices XIII.

Mic. 1654. Cauſes to be ſpecially aſſigned.

I. ACCORDING to the Statute of 27 *Eliz.* upon Demurrers, the Cauſe to be ſpecially aſſigned, and not involved with general unapplied Expreſſions of double, negative pregnant, uncertain, wanting Form, and the like, but to ſhew ſpecially wherein, that the other Party may (as the Caſe ſhall require) either join in Demurrer, or amend, paying Coſts, or diſcontinue his Action.

Same Rule. Matters of Form to be ſpecially aſſigned.

II. IF it be declared, that Matters of Form, as well on the Part of him that demurs, as of him that joins in all Parts of the Pleading, are diſcharged; unleſs ſuch as are ſpecially aſſigned.

Paſ. 27 *Car.* 2. Of delivering Copies to the Judges.

III. ATTORNIES to deliver Copies of the Record of ſpecial Verdicts or Demurrers, to the reſpective Juſtices one whole Week at leaſt next before the Day (*a*) appointed for Argument at Bar, namely, the Plaintiff's Attorney (*was to deliver*) one Copy to the Lord Chief Juſtice, and another to the ſenior Judge; and the Defendant's Attorney a Copy to

(*a*) *In order to have a Day appointed, the Plaintiff delivers the Roll (wherein the Demurrer is entred) to the Secondary, and gets a Serjeant to move for a* Conſilium *or ſpeedy Day, to be heard to argue it, which the Court grants on the Secondary's Reading the Record.* 1 Inſtr. Cler. 532.

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each of the other two Judges, according to the antient Courſe here uſed, under ſuch Penalty as the Court *ſhould* think fit to inflict upon the Attorney neglecting his Duty therein. And no Argument by Counſel on either Side *was to* be heard at Bar, until Books *were* delivered to all the Judges. Provided nevertheleſs, in Caſe the Attorney of either *did* not deliver Books as he ought, then if the Attorney on the other Side for expediting his Client's Cauſe *would* deliver Books to all the Judges, three Days at leaſt before the Argument, Counſel *ſhould* be heard on his Client's Behalf at the Day appointed; and the Attorney delivering Books as aforeſaid to be imburſed the Charges of delivering the two Books which ought to have been delivered by the Attorney of the adverſe Party, which Charges the ſaid Attorney *was* bound to pay on Demand thereof; and if the Charge of delivering the ſaid two Books *was* not paid before Judgment, it *ſhould* be allowed upon taxing Coſts; and in that Caſe the Attorney *was* not *to* be compelled to pay the ſaid Coſts. But if no Coſts *were* to be taxed in the Caſe, then the Attorney making Default in Delivering of Books as aforeſaid, *was to* be compelled to pay the Charges of the Copies ſo delivered by the Attorney of the adverſe Party, by Attachment, or otherwiſe, as the Court thought fit.

Common Pleas. *But by Occaſion of great Delays in Defendants Attornies not delivering Books in due Time to the two puiſne Judges, and for a greater Certainty of their being regularly delivered, it was afterwards ordered that,*

Mic. 6 *Geo.* 2. IV. THE Plaintiff's Attorney ſhall deliver all the Demurrer-Books to the Lord Chief Juſtice and the reſt of the Juſtices of this Court, and the Defendant's Attorney ſhall pay the Plaintiff's Attorney for two of the ſaid Books, two Days at leaſt before the Day appointed for arguing ſuch Demurrer, and the Defendant ſhall not be heard by his Counſel, when the Cauſe comes on to be argued, unleſs ſuch Payment be made as aforeſaid.

Trin. 12 *Geo.* 1. Entring Cauſes to be argued. V. NO Cauſe in any Term to be put in the Book of this Court, to be argued after the laſt Day of Arguments, unleſs the Court here be thereupon moved, and ſhall order it.

Diſcontinuance. Vide **Demurrers** I.

Ejectment.

Ejectment.

Vide Attornies XX. Imparlance V.

I. PLAINTIFFS, or their Attornies, or the Parties who deliver Declarations in Ejectment in *London* and *Middleſex*, ſhall (*a*) forewarn the Tenants in Poſſeſſion of the Tenements in Queſtion reſpectively, that they muſt appear by Attorney in Court here the (*b*) next Term after the Delivery of the Declaration; and the Plaintiff aforeſaid ſhall take nothing by Motion for Judgment againſt the caſual Ejector, for Default of having appeared, unleſs ſuch Motion be made within a Week next after the firſt Day of every *Michaelmas* and *Eaſter* Term. And within four Days next after the firſt Day of every *Hillary* and *Trinity* Term. *Yet notwithſtanding this Rule, the Court on Motion will, after thoſe Times, grant a Rule againſt the caſual Ejector.*

Trin. 32 *Car.* 2. Of delivering Declarations in Ejectment.

(*a*) *Such Notice is now always in Writing at the Bottom of the Declaration.*

(*b*) But in *London* or *Middleſex*, ſay the firſt Day of the next Term.

Motion for Judgment.

II. NO Declaration in Ejectment ſhall be taken in, or received by any of the Secondaries of this Court, unleſs it be ſigned by ſome Serjeant at Law, and delivered by himſelf to one of the Secondaries in open Court. And the Secondaries ſhall, in the Morning next after

Mic. 2 *Geo.* 2. Declaration in Ejectment to be ſigned by Counſel, *&c.*

Common Pleas. the End of every Term, and at all other Times, when required, produce and ſhew to any Perſon who ſhall demand the ſame, their alphabetical Paper of Ejectments moved or delivered into Court, in each Term, in Manner aforeſaid.

Ely. Vide **Certiorari.**

Error.

Trin.28Car.2. Of Execution *Non obſtante brevi de Errore.*

I. NO Attorney ſhall make out any Executions, *Non obſtante Brevi de Errore*, until they have had a Certificate from the Clerk of the Errors, that the Record is not removed, and a *Non pros'* thereupon duly ſigned, and that all Attornies do forthwith bring their Writs of Error by them ſued out to the Clerk of the Errors, to be allowed according to the antient Practice of the Court, or in Default thereof, the Plaintiff's Attorney in the Action is, and may be at Liberty to proceed to Execution. *And likewiſe afterwards ordered that,*

Allowing Writs of Error.

Mic.28Car.2. II. ALL Writs of Error ſhall immediately be delivered to the Clerk of the Errors; and none ſhall be obliged to ſtay Execution by Reaſon of any Writ of Error before the Writ of Error be delivered to the Clerk of the Errors; and in Caſe where ſpecial Bail is required, unleſs the Plaintiff upon ſuch Writ of Error within four Days after delivering thereof puts

When to put in Bail.

puts in *Bail* according to Law, and ſhall obtain a *Superſedeas* thereupon, the Defendant may proceed to Execution notwithſtanding ſuch Writ of Error. *Common Pleas.*

III. BEFORE any Allowance of any Writ of Error, the Defendant in the original Action ſhall put in Bail, not only to appear and anſwer to the Plaintiff in the former Suit in a new Action to be commenced by the ſaid Plaintiff, for the Cauſe mentioned in the firſt Action, but alſo to ſatisfy the (*a*) Condemnation, if the Plaintiff ſhall begin his Suit before the End of two Terms next after the allowing the Writ of Error. *Mic.* 12 *Geo.* 1.

(*a*) *The Bail on a Writ of Error muſt pay the Condemnation, and Rendering the Principal will not ſave them.* Cro. Jac. 402.

IV. IN all Caſes where Bail ſhall be filed on Writs of Error, ſuch Bail ſhall be perfected within four Days after Exception taken thereto, or in Default thereof, the Clerk of the Errors of this Court ſhall *Non pros'* ſuch Writ of Error. *Mic.* 6 *Geo.* 2. When to perfect Bail.

V. AND after the Writ of Error is duly allowed, and a *Superſedeas* thereupon obtained, no Execution ſhall be made for not tranſcribing the Record in the King's Bench, without a Certificate in Writing from the Clerk of the Errors, that the Plaintiff in Error made Default in tranſcribing the Record in the King's Bench according to the Rule of Court firſt of Courſe given. *Mic.* 28 *Car.* 2.

Executions. Vide **Error. Priſoners. Writs.**

Exigenter. Vide Attachment of Privilege II. Outlawries.

Fees. Vide Appearance IV. Attachment of Privilege II. Bail XXII. Fines V. Habeas Corpus XIX. Outlawries III. Posteas III. Prisoners XXI, XLV, &c. Recoveries. Trials V.

Feme Coverts. Vide Fines IV.

Filazers. Vide Appearances. Attachment of Privilege II. Bail X. Bringing in the Body.

Fines.

Vide Recoveries I.

Hill. 13 *Geo.* 1. Of acknowledging Fines.

I. NO Fine whatsoever, taken and acknowledged before any Commissioners, by Virtue of any Writ of *Dedimus potestatem* to them directed, be allowed to pass, unless some Person present when such Fine was taken and acknowledged, do personally appear before the Lord Chief Justice, or some other Justice of this Court, and be examined upon Oath,

Oath, touching the due Execution thereof, and particularly whether ſuch Perſon knows the Parties acknowledging ſuch Fine. *Common Pleas.*

II. NO Fine whatſoever taken and acknowledged before any Commiſſioners, by Virtue or Colour of any ſpecial *Dedimus poteſtatem* to them directed, to paſs the *Queen*'s Silver Office, and the *Queen*'s Silver of ſuch Fine be recorded, unleſs Oath be made before the Lord Chief Juſtice or ſome other Juſtice of this Court, of the due Execution of the ſaid Fine, and alſo of the Day and Year when each Conuſor ſo executed the ſame, where a Raſure in the Day or Year ſhall appear in the Caption thereof *; and no Fine ſo acknowledged before ſuch Commiſſioners in Caſe of ſuch Raſure, be received and entred by the Clerk of the *Queen*'s Silver, before there be an *allocatur* reciting the Day and Year of each particular Conuſor's Acknowledgment, under the Hand of the ſaid Lord Chief Juſtice or ſome other Juſtice of this Court, for the Paſſing of the ſaid Fine firſt had and obtained. AND no Fine whatſoever taken and acknowledged before the ſaid Lord Chief Juſtice or any Judge of Aſſize, or Serjeant at Law, if the Date of the Caption of ſuch Fine ſhall appear to have been raſed, do for the Future paſs the *Queen*'s Silver Office, and the *Queen*'s Silver of ſuch Fine be recorded

Eaſter 9 *Annæ*, To prevent Raſures in the Day and Year in the Captions of Fines, taken before Commiſſioners.

* Vide *The laſt mentioned Rule made ſince this, of the Manner of acknowledging Fines before Commiſſioners.*

Or, before a Judge.

Common Pleas. recorded by the ſaid Clerk, before there be an Order under the Hand of the ſaid Lord Chief Juſtice, or ſome other Juſtice of this Court, for his Paſſing and entring ſuch Fine firſt had and obtained. AND after any Fine whatſoever ſhall have paſſed the ſaid Office, and the *Queen*'s Silver of ſuch Fine be recorded, neither the *Præcipe* or Caption of any ſuch Fine or Writ of *Dedimus poteſtatem*, or Writ of Covenant, by which any ſuch Fine be paſſed, ſhall be raſed or altered before there be an Order under the Hand of the ſaid Lord Chief Juſtice, or ſome other Juſtice of this Court, for the doing thereof, and for the Amending all Entries made from ſuch Writs firſt had and obtained.

Paſ. 6 W. & M. A Note of the Parties and Parcels, &c. to be left at the Return-Office when Fines are in *London* or *Middleſex*.

III. NO Writ or Writs of Covenant upon any Fine or Fines whatſoever of any Meſſuages, Lands or Tenements, or of Rents iſſuing out of them, lying or being, or which ſhall therein be mentioned to lie or be within the City of *London* and the Liberties thereof, or within the ſaid County of *Middleſex*, or either of them, whether the ſame ſhall be of Meſſuages, Lands or Tenements in the ſaid City and County, or either of them ſingly, or joined, with any other Meſſuages, Lands or Tenements in any other City or County, ſhall be returned by the Clerk for the Return of the ſaid Writs of Covenant for the Time being, until

Common Pleas.

until the Attornies who ſhall proſecute ſuch Fines, ſhall give a Note or Notes in Writing to the ſaid Clerk, for his Deputy, as well of the Perſon's Name and Place of Habitation who is really and properly Attorney to the ſaid Fine or Fines, as of their own Names and Places of Habitation, as alſo of the particular Street, Lane, or Place where ſuch Meſſuages, Lands or Tenements, or Rents iſſuing out of the ſame, are ſituate; and of the Perſon or Perſon's Name or Names who is, or are in Poſſeſſion of ſuch Meſſuages, Lands or Tenements, or who is, or are to pay the Poſt-Fines thereupon due unto their Majeſties. And the Clerk for the Return of the ſaid Writs of Covenant, his Deputy or Clerk, and all Attornies of this Court, and others concerned therein, ſhall take Notice from Time to Time of the due Execution hereof; and the Clerk for the Return of the ſaid Writs of Covenant, his Deputy or Clerk, ſhall keep ſuch Notes or Writings on a File, and do upon Application unto him or them made by the Secondaries of the Counters in *London*, and the Under-Sheriff of *Middleſex*, or any of them, give unto them or any of them requeſting the ſame from Time to Time, or ſuffer them to take an Account in Writing thereof, according to the Account by him or them taken in Purſuance hereof.

IV. *For*

Common Pleas.

Hill. 28 & 29 Car. 2. Method of preventing the Paſſing of Fines illegally acknowledged.

IV. *FOR preventing the Paſſing of Fines acknowledged by Infants, or Feme Coverts without the Conſent of their Huſbands, or Perſons of* Non ſane memorie, *or otherwiſe diſabled in Law.* ALL Rules heretofore made for ſtaying any Fine upon any ſuch Suggeſtion or Occaſion as aforeſaid, were to be renewed or continued, and Copies thereof left with the *Cuſtos Brevium*, *Clerk of the King's Silver and Chirographer*, before the End of *Eaſter* Term (*then*) next. And for the Future all Perſons making any Complaint againſt ſuch Fines acknowledged by Perſons ſo diſabled as aforeſaid, or by any Perſon in the Name of another, or by the like Deceit, ſhall from Term to Term enter and continue the Rule, or leave Copies thereof with the ſaid reſpective Officers, that the ſame may thereby be the better taken Notice of, or in Default thereof the ſaid Officers not to ſtand further obliged thereby, and all Perſons concerned in obtaining ſuch Rules, their Attornies or Clerks are hereby injoined every Term to ſearch and ſee the Books and Entries of Fines with the Clerk of the King's Silver, or other Officers where Entries are made for that Purpoſe: And for the Future all Manner of *Caveats* and Orders for ſtopping Fines and Recoveries, to be renewed every Term, or elſe to loſe their Force. *But afterwards it being repreſented by the Clerk of*

of the King's Silver, that it was impoſſible to ſtop ſuch Fines by Reaſon of the Multitude of old Orders, that he knew not which were in Force or which determined, it was ordered that for the Future. Common Pleas.

V. ALL Manner of *Caveats* and Orders for the Stopping any Fines, ſhall be renewed every Term, and Copies thereof left with the Clerk of the King's Silver, for which he is to demand only his antient Fee of 3 *s.* and 4 *d.* the Term as aforeſaid, and in Default thereof all *Caveats* that ſhall not be ſo renewed, ſhall loſe their Force and be void. *Paſ.* 29 *Car.* 2.

Forejudger. Vide **Attornies** XXV, XXVI. **Attachment of Privilege.**

Gaolers. Vide **Priſoners.**

Habeas Corpora. Vide **Trials.**

Habeas Corpus.

Vide Bail II. Priſoners.

To Sheriffs and Gaolers.

Mic. 1654. *Habeas Corpus cum cauſa ad faciend. & recipiend.* how made returnable.

I. A *Habeas Corpus cum cauſa ad faciendum & recipiendum*, directed to any Sheriff, (other than *London* or *Middleſex*) not to be returnable *immediatè*, or in the Vacation-time, but at a Day certain in Court in the Term.

Same Rule.

II. SUCH *Habeas Corpus* to the Sheriff of *London* or *Middleſex*, may be granted in Term or Vacation-time returnable *immediatè*.

Same Rule. When to bring the Body.

III. IN Caſe of *Habeas Corpus* returnable *immediatè*, the Sheriff ought to make his Return the ſame Day that the Writ is delivered, and to bring the Body immediately as is required by the Writ, without permitting him to wander abroad by Colour or Pretence thereof.

Same Rule.

IV. WHERE a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the *Fleet*, Marſhal or other Gaoler, the Priſoner is to be brought in Cuſtody according to the Writ at the Day limited, without being permitted to wander abroad in the mean Time upon Pretence of ſuch Writ.

V. A

Common Pleas.

V. A *Habeas Corpus ad Reſpondendum* may be granted to the Warden of the *Fleet*, or to the Keeper of an inferior Priſon of a Liberty or Franchiſe, where a *Capias* is returned in Court *Non eſt inventus*; ſuch Writ to recite ſhortly the *Capias*, and to be returnable at a Day certain in Court, and to be a good Cauſe of *Detainer*, as well as where a *Capias ad reſpondendum* comes to a Sheriff.

Same Rule. Habeas Corpus ad reſpondend. to whom granted, and how returnable.

VI. IF a *Capias* be returned in Court *Non eſt inventus*, againſt a Priſoner in the *Fleet*, he is compellable to appear upon a *Habeas Corpus ad reſpondendum*, as well at the Suit of a Stranger, as at his Suit whereupon he is impriſoned, and to anſwer to a Declaration according to the Rules of the Court, or that Judgment be entred againſt him.

Same Term. Appearance to a *Habeas Corpus ad reſpondend'.*

VII. A *Habeas Corpus ad Satisfaciendum* may be granted to the Warden of the *Fleet*, or to ſuch inferior Gaoler, (*as a Habeas Corpus ad Reſpondend' beforementioned*) returnable in Court at a Day certain, and the Number of the Roll of the Judgment to be indorſed upon the Writ by the Attorney who ſues it out; and ſuch Writs to be a Cauſe of Detainer.

Same Rule. Habeas Corpus ad Satisfaciendum, to whom granted, and when returnable.

To inferior Courts.

Mic. 1654. and *Hill.* 13 & 14 *Car.* 2. When to be made returnable.

VIII. WRITS of *Habeas Corpus*, directed to inferior Courts of *London*, *Weſtminſter*, *Southwark*, and other Courts within

Common Pleas. within five Miles of *London*, may be returnable *immediatè*. *Vide first Part, Title* **Habeas Corpus, § I.** *in the Notes.*

In general.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. IX. ALL *Habeas Corpus*'s returnable in Court ſhall be returnable at a Day certain.

Commitment on Habeas Corpus.

Mic. 1654. When charged with other Cauſes. X. IF upon a *Habeas Corpus* the Priſoner be returned charged with Proceſs out of the Upper Bench or Exchequer, and out of the Common Pleas, the Priſoner may be committed with thoſe Cauſes.

Same Rule. XI. IF upon a *Habeas Corpus cum cauſa*, the Priſoner be returned charged with a Proceſs out of the common Bench, tho' returnable at a Day to come, the Priſoner may be committed with his Cauſe.

Same Rule. One of the Prothonotary's Clerks to attend on Commitment. XII. UPON every Commitment by a Judge out of Court, the Proſecutor of the *Habeas Corpus* is to have one of the Prothonotary's Clerks preſent at the turning over the Priſoner, that the Commitment may be duly entred and filed.

Bail on Habeas Corpus.

XIII. IF upon a *Habeas Corpus*, or *Cepi Corpus*, the Party be returned in Cuſtody and bailable, and ſpecial Bail requirable, the Bail not to be taken abſolutely without Conſent of the Plaintiff or his Attorney, and if taken *de bene eſſe*, the Priſoner not to be diſcharged 'till the Bail be aſſented unto, or the Plaintiff over-ruled in Court to accept the ſame upon Examination.

Mic. 1654. Priſoner not to be diſcharged on Bail not aſſented to, *&c.* by Plaintiff or his Attorney.

XIV. UPON a *Habeas Corpus*, IF the Defendant *intended* to be bailed, then within four Days after Allowance of the Writ, Notice *was* to be given in Writing of the Names and Addition of the Bail, the Time when, and the Judge before whom the ſame *was* intended to be put in, to the Plaintiff or his Attorney, but if they *were* not to be found, then the ſaid Notice *was* to be left with the Chief Clerk of the inferior Court, or his Deputy by the Party that *tendered* the Bail, or his Attorney, and Oath *was to be* made thereof, otherwiſe the Bail not to be taken, and a *Procedendo might* be granted if deſired before Bail accepted.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. Notice of Bail put in on Removal from an inferior Court.

XV. IF Bail in ſuch Caſe *was* not put in within eight Days after the *Habeas Corpus* allowed in thoſe (i. e. *inferior*) Courts when it is returnable *immediatè*, a *Procedendo might* be granted by any Judge of this Court.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. When Bail to be put in.

XVI. BAIL

Common Pleas.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. When taken *De bene esse.* When to be excepted against, or it may be filed.

XVI. BAIL taken in the Absence of the Plaintiff or his Attorney, to be taken *De bene esse*, and if no Exception be taken within twenty Days after Notice given to the Plaintiff or his Attorney of the Names of the Bail, and before whom taken, then upon Oath made of such Notice the Bail to be delivered out to be filed.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. When it must be filed.

XVII. IF Bail upon a *Habeas Corpus* be taken before a Judge at his Chambers, and not excepted against, if not filed within four Days after the twenty Days, a *Procedendo* may be granted upon Certificate that it is not filed.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. Rule to put in Bail.

XVIII. IN Term-time the Plaintiff in the inferior Court may speed the Defendant to put in, or to file his Bail by Rules given in the Bill of Pleas; and if not filed according to the Rules, upon Certificate thereof, a *Procedendo* to be granted.

Mic. 1654. *Hill.* 13 & 14 *Car.* 2. Bail taken of a Person in Custody.

XIX. UPON Bail taken of a Person in Custody, the Judge's Clerk to deliver the Bail to the Prothonotary, to be filed, if assented unto; and to that End the Prothonotary's Fees to be deposited, but the Prisoner not to be discharged, until the Bail be assented unto, or over-ruled in open Court.

N. B. *In what Cases Bail on* Habeas Corpus *are not liable.* Vide post.

Common Pleas.

Of Declarations.

XX. IF Bail be given upon a Removal by *Habeas Corpus*, the Original to be ſhewn upon tendring the Declaration, otherwiſe the Bail is not liable; unleſs the Party or his Attorney will voluntarily appear, or take a Declaration without ſhewing it.

Mic. 1654. Delivering Declaration, and when Bail not liable.

XXI. IN Caſe of a Removal out of an inferior Court, the new Original to agree with the Nature of the Action, the Sum in Demand, and the County, otherwiſe the Bail not liable; but if the Party will voluntarily appear to ſuch varying Original, to be good as to the Party; but if upon a Cauſe removed by *Habeas Corpus*, out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*, which are Counties where the Judges of *Niſi prius* ſeldom come, if the Action be tranſitory it muſt be laid in the County of *Kent*, *Southampton*, *York*, *Staffford*, or *Dorſet*, where the Town and County lieth, and the Recognizance to be taken accordingly.

Same Rule.

Where the *Venue* to be laid when removed out of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*.

XXII. IF any Perſon be committed to the *Fleet* by *Habeas Corpus* in *Hillary* Term or Vacation, unleſs the Plaintiff bring ſuch Priſoner to the Bar by *Habeas Corpus*, and declare againſt him within ſix Days after *Trinity* Term begun, ſuch Priſoner may be diſcharged by *Superſedeas*, to be iſſued of Courſe out of the

Hill. 14 & 15 *Car.* 2. Time of Declaring on Commitment to the *Fleet*, in *Hillary* Term or Vacation.

Common Pleas. Prothonotary's Office of this Court where the Commitment of the ſaid Priſoner with his Cauſes is entred, ſo as ſuch Priſoner firſt enter his Appearance by Attorney with the ſaid Prothonotary in Caſe of an Attachment of Privilege or of a Plaint *, or with the Filazer upon other Proceſs returnable in this Court: And do bring a Certificate under the Hand of the Warden or Clerk of the *Fleet*, that no Proceedings by *Habeas Corpus* have been had againſt him within the Time aforeſaid. AND if committed to the *Fleet* in *Eaſter* Term or Vacation, unleſs the Plaintiff bring ſuch Priſoner to the Bar by *Habeas Corpus*, and declare againſt him within ſix Days after *Michaelmas* Term begun, ſuch Priſoner ſhall be diſcharged in Manner aforeſaid. AND if committed to the *Fleet* in *Trinity* Term or Vacation, unleſs the Plaintiff bring the Priſoner to the Bar by *Habeas Corpus*, and declare againſt him before the End of *Michaelmas* Term following, ſuch Priſoner may be diſcharged as aforeſaid. AND if committed to the *Fleet* in *Michaelmas* Term or Vacation, unleſs the Plaintiff bring the Priſoner to the Bar by *Habeas Corpus*, and declare againſt him within ſix Days after *Eaſter* Term begun, ſuch Priſoner may be diſcharged in Manner aforeſaid: And the Plaintiff may declare upon ſuch Appearance entred the next Term after ſuch Appearance or *Superſedeas* granted; and the Attorney appear-

* i. e. *Plaints of inferior Courts removed by* Habeas Corpus.

Upon Commitment in *Eaſter* Term or Vacation.

In *Trinity* Term or Vacation.

When to declare after Appearance and *Superſedeas.*

appearing for ſuch Priſoner ſhall be bound to take a Declaration, and not afterwards. *Common Pleas.*

Of Pleading, &c.

XXIII. *FOR the Certainty of the Practice in Proceedings to be had againſt Priſoners in the* Fleet *by Virtue of this late Act of Parliament*; IN Caſe any ſuch Priſoner ſhall hereafter be brought to the Bar by *Habeas Corpus* returnable at any Day certain being before the Day of Appearance of the third Return of any Term, and the ſaid Priſoner names an Attorney who ſhall appear for him at the Suit of the Plaintiff in the Action, the Defendant is compellable to plead by the laſt Day of the ſaid Term, to a Declaration delivered to the ſaid Attorney, if the Plaintiff give a Rule for him ſo to do. But where any Priſoner is brought to the Bar, by ſuch Writ returnable after the Day of Appearance of ſuch third Return of any Term, the Defendant of Courſe to have Imparlance until the next Term following. But if ſuch Priſoner refuſe to nominate an Attorney to appear for him, then he is to plead within eight Days according to the ſaid Act, provided there be eight Days after the Return of the *Habeas Corpus* to give a Rule to be out within the Term. AND after Iſſue joined, ten Days Notice at the leaſt excluſive of the Day of giving ſuch Notice

Same Rule. Time of Pleading when Defendant appears by Attorney.

And when on Refuſal to appear by Attorney.

Notice of Trial.

Common Pleas. be given to the Defendant (being actually in the Priſon of the *Fleet*) of the Time of Trial of ſuch Iſſue to be had.

Mic. 1654. Coſts. XXIV. UPON a Cauſe removed by *Habeas Corpus* out of an inferior Court, having Juriſdiction of the Cauſe, if Judgment be given for the Plaintiff, the Coſts below to be conſidered and caſt into the Judgment; if for the Defendant the Charge of putting in Bail.

Imparlances.

Vide Declarations XIII, &c. Judgments V.

Paſ. 24 *Car.* 2. Appearance to be entred before Imparlance. I. NO Defendant ſhall be permitted to imparl 'till Appearance is entred.

Mic. 1654. In what Time Imparlance entred. II. PLAINTIFFS in ſpecial Actions may enter their Imparlances in the Term following, entring the ſame the firſt Term with an *Incipitur*, as it hath been uſual in *Quare Impedits*; but all other Imparlances to be duly entred before any Iſſues, Demurrers or Judgments thereupon be entred.

Same Rule. III. IF the Defendant appears the firſt Term, and gives no Rules to declare, the Defendant's Attorney may the ſecond Term be compelled to accept a De-

Declaration with Imparlance, and the Declaration may be entred as of that Term, with an Imparlance over to the next Term, or in the firſt Term with an *Incipitur*, as before, as the Caſe ſhall require. *Common Pleas.*

IV. UPON a meer Real Action, or a bare *Clauſum fregit*, an Imparlance of Courſe. But in Dower after a View had, if the Day to appear be upon the firſt Return of any *Hillary* or *Trinity* Term, no Imparlance without Conſent or Rule of Court. *Same Rule.* When of Courſe. And when by Rule of Court.

V. IN Ejectment or any Perſonal Action, if the Appearance be the firſt Return of *Hillary* or *Trinity* Term, no Imparlance without Conſent or ſpecial Rule, other than in *London* or *Middleſex*. If the Appearance be before *Craſtin' Martin'* or *Mens' Paſ'*, no Imparlance without Conſent or ſpecial Rule. But if upon or after thoſe Returns, an Imparlance of Courſe. *Same Rule.*

VI. IN *London* or *Middleſex*, if the Appearance be before *Craſtin' Aſcen'*, or before the laſt Return of any other Term no Imparlance without Conſent or ſpecial Rule; but the Defendant to plead as of that Term within fourteen Days after the End of the Term, upon Rule given to anſwer; but if of *Craſtin' Aſcen'* or the laſt Return, then an Imparlance of Courſe. *Same Rule.*

Common Pleas.

Trin. 21 *Car.* 2. How entred.

VII. ALL Attornies and Clerks of this Court to enter Imparlances or *Incipiturs* in all Cauſes according to the antient Uſage of this Court, the Want thereof where Imparlances ought to be entred, to be a ſufficient Cauſe for the Defendant to have a farther Imparlance of Courſe. And no common Rule to plead to be given in any Cauſe where Imparlances or *Incipiturs* ought to be, and are not entred upon Record in any of the Prothonotaries Remembrances, until the Prothonotary in whoſe Office the Cauſe is, ſhall give Allowance for the giving ſuch Rule to plead.

N. B. *Imparlances in* C. B. *are not entred in Form as in* B. R. (*except when the Proceedings are againſt an Attorney*), *for where a Declaration is delivered or filed, and the Plaintiff is not intitled to a Plea that Term; 'tis uſual only to write the Word* Imparlance *at the Bottom of the Declaration, and when the Iſſue is made up no Notice is taken of it in the Entry,* &c. *but the Plea comes immediately after the Declaration.*

Infants. Vide **Fines** IV.

Inquiry. Vide **Declarations** XII. **Judgments** IX. **Notices.**

Iſſues.

Iſſues.

Vide Notices. Record of Niſi prius. Rolls VIII.

I. *COmplaint having been made by the Clerk of the Treaſury and the reſt of the Clerks there, that Practicers often made up their Iſſues of Terms in which they were not joined, and thereby defrauded the ſaid Officers of their Fees, therefore ordered that*, EVERY Iſſue ſhall be entred on Record of the Term in which it was joined, notwithſtanding any Conſent given by the Attornies, or their Agents, on either Side, to the contrary. And whoſoever ſhall offend in Breach of this Rule, ſhall be adjudged guilty of a Contempt and be puniſhed accordingly. AND the Clerk of the Treaſury may require any Perſon ſuſpected of ſuch illegal Practice as aforeſaid, to produce ſuch Proceedings in the Cauſe, as the ſaid Clerk of the Treaſury ſhall think neceſſary for the better diſcovering when Iſſue was actually joined.

Hill. 11 *Geo.* 1. Of what Term made up and entred on the Roll.

Judgments.

Vide Declarations, XII, &c. Motions. Pleas. Prisoners. Warrants.

Mic. 1654. Where Rule to plead before Judgment.

I. NO Judgment by *Nihil dicit* to be entred until there be a Rule to plead, first given in that Prothonotary's Office where the Cause is entred, and the Day of such Rule be past.

Mic. 1654. Where Deeds, &c. to be shewn before Judgment signed.

II. WHEN a Deed, Will, or Letters of Administration are to be shewn in a Declaration, the Attorney for the Plaintiff delivering a Declaration with a Subscription, the Defendant shall not be compelled to plead 'till the same be shewn, no Judgment by *Nihil dicit* to be entred against the Defendant 'till the same be shewn; nor any *Nonsuit* upon the Plaintiff, if he shew the same before the End of the next Term.

Same Term. Where Motion before Judgment.

III. IN Cases of popular Actions and Informations, or real or mix'd Actions, except * Ejectments, no Judgment to be entred by Default, or *Nil dicit*, without Motion in Court.

* *Vide Title* Ejectment.

Same Rule.

IV. UPON *Nul tiel Record* pleaded, and no Difficulty or Variance appearing, Judgment be entred after Rule, without Motion.

V. AF-

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Same Rule. Where a Term's Notice.

V. AFTER any Imparlance of three Terms, without any calling for Anſwer no Judgment to be entred without a Term's Notice.

Mic. 5 Car. 2.

VI. NO Judgment whatever (except final Judgments upon *Poſteas*, *Writs of Inquiry*, and *Non pros'*) ſhall be ſigned by any of the Prothonotaries unleſs the Stamp of the Clerk of the Warrants be firſt impreſſed on the Paper whereon ſuch Judgment is to be ſigned, whereby it may appear that Warrants of Attorney are duly filed.

Mich. 1654. Time allowed for ſigning Judgments.

VII. SIXTEEN Days allowed for ſigning Judgments after every Term, except *Eaſter* Term upon Cauſes depending in the Term precedent. *But Judgment may be ſigned at any Time either in Term or Vacation, when the Plaintiff is intitled to it purſuant to the late Rules, which ſee under the Titles* **Declarations** and **Pleas.**

Trin. 29 Car. 2. Of ſetting down the Day of ſigning Judgments.

VIII. *Whereas by an Act of this preſent Parliament*, (viz. 29 Car. 2.) *the Day and Year of ſigning Judgments (without Fee) ſhall by the Perſon who ſigns ſuch Judgment be ſet down upon the Paper-Book *, which Day of the Month and Year ſhall be alſo entred upon the Margent of the Roll, whereon ſuch Judgment ſhall be entred.* IN Purſuance of the ſaid Act, the reſpective Attornies and Clerks of this Court, that ſhall procure any Judgment to be ſigned as aforeſaid, ſhall at the

* *i. e. The Judgment-Paper.*

Common Pleas. the bringing in their Rolls produce the reſpective Paper-Books whereon ſuch Judgments are ſigned, that the Prothonotary may examine if the Day and Year in the Margin of each Roll agree with the Day and Year ſigned by the Prothonotary on the Paper-Book.

Same Rule. Of final Judgments that are entred by the Clerk of the Judgments.

IX. AND upon ſigning Judgments upon *Poſteas*, *Writs of Inquiry*, *Special Verdicts*, *Demurrers*, *Nul tiel Record*, *Relicta verificatione*, and ſuch like, they ſhall forthwith be delivered over to the reſpective Clerks of the Judgments, ſo that the Days when ſigned may be drawn up in the Judgment-Papers in each Prothonotary's Office, that the ſame may be entred on the Margin of the Roll whereon the Judgment is entred.

Same Rule. When Judgments to be ſign'd.

X. JUDGMENTS by Confeſſion, either by *Non ſum informatus* or *Nil dicit*, not to be ſigned, unleſs brought to be ſigned within twenty Days after the End of *Trinity*, *Michaelmas* or *Hillary* Terms, and at or before the firſt Day of *Trinity* Term, unleſs the Attorney or Clerk do produce to the Prothonotary a Warrant of Attorney that bears Date after the End of every ſuch Term, and then ſuch Judgments on ſuch Warrants may be ſigned at or before the Eſſoin-Day of every ſucceeding Term, and not after. But ſee § VII.

Mic. 1654. Of *Capiatur.*

XI. IN a Judgment by *Non ſum informatus*, or *Nil dicit* in *Ejectione firmæ*, the

the *Capiatur* to be entred upon the firſt Judgment. *Common Pleas.*

XII. ALL Judgments ſigned in Cauſes depending in this Court, ſhall be ſigned in the Office of one of the Prothonotaries of this Court, and not elſewhere. *Mic.* 6 *Geo.* 2. In what Office to be ſigned.

Jury. Vide **Male Practice. Trials III.**

Keeper of the Seal. Vide **Attachment. Of Privilege II.**

Lunaticks. Vide **Fines IV.**

Male Practice.

Vide **Attornies V, X.**

I. A Jury of able and creditable Officers, Clerks and Attornies, once in three Years are to be impanelled, and ſworn to inquire. *Mic.* 1654. A Jury to inquire into Abuſes, *&c.*

1. Of Points uſually inquirable by the Writ, *viz.* Falſities, Contempts, Miſpriſions and Offences.

2. Of

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2. Of ſuch as have been admitted Attornies or Clerks, and are notoriouſly unfit, their Names to be preſented to the Court, and they to be puniſhed or removed, as the Caſe ſhall require.

3. Of new or exacted Fees, and of thoſe that have taken them, under whatſoever Pretence, and to prepare and preſent a Table of the due and juſt Fees, that the ſame may be fixed and continue in every Office; and likewiſe for the *Fleet*.

Same Rule.

II. AND that ſome Perſons be injoined and ſworn to give Evidence, *viz.* ſome Clerks of the Court, and ſome Attornies in every County, not excluding others.

Motions.

Vide Bail-Bonds II. Ejectment. Judgments III, IV. Notices VI.

Per Notice fix'd up in the Prothonotary's Offices. Mic. 2 Geo. 2. Enlarging Rule on Motion.

I. ATTORNIES of this Court are deſired to take Notice, that the Court will enlarge no Rule for ſhewing Cauſe, unleſs Notice be given of Motion to enlarge ſuch Rule, and Affidavit made of ſuch Notice. And likewiſe, that the Court will not ſet any Judgment aſide for Irregularity, unleſs Motion be made to the Court for that Purpoſe, before a Writ of Inquiry executed.

Ne recipiatur. Vide **Recipiatur** I. **Trials** II.

Non pros'.

Vide **Error** IV.

I. IN all Actions, except Replevin, a Nonsuit for Want of a Declaration not to be entred, (tho' the Rule to declare is out) unless the Plaintiff or his Attorney (if to be found) be first called on for a Declaration. *Mic.* 1654. Declaration to be demanded before *Non pros'* signed.

II. IF the Plaintiff's Attorney being called on for a Declaration cannot afterwards find the Defendant's Attorney or Clerk to save a Nonsuit, he may leave the Declaration in the Prothonotary's Office where the Rule (*to delare*) is given. And in any Case where a Declaration is left in the Office, no Nonsuit for Want of a Declaration to be entred. *Same Rule.* How to save a Nonsuit, when.

III. IF the Plaintiff's Attorney or Clerk *was* called on for a Declaration, and *did* not deliver it to the Defendant or his Attorney some Time during that Term, then the Rule being out, the Defendant's Attorney *might* enter a Nonsuit. *Same Rule.* When *Non pros'* might formerly be signed.

IV. IF a Writ *was* returnable *quinq; Pasc'* or the last return of any Term, the Defendant giving a Rule and calling for *Same Rule.*

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for a Declaration, if Declaration *was* not delivered according to the former Directions, four Days or more before the Eſſoin-Day of the enſuing Term, he *might* enter a Nonſuit, tho' above ſixteen Days after the preceding Term. *But there having been divers Diſputes, as to the Time of Signing* Non pros' *for Want of Declaration, for reducing the Practice to a Certainty, it was afterwards ordered that,*

Hill. 9 *Ann.* The Time of ſigning *Non pros'* according to the preſent Practice.

V. UPON all Proceſs returnable the firſt or any other Return in any Term, the Plaintiff ſhall have Liberty to the End of the next enſuing Term to deliver his Declaration to the Defendant's Attorney or of leaving the ſame in the Office, and the Defendant's Attorney having entred his Appearance with the proper Officer, as of that Term in which the Proceſs is returnable; and at the End of the enſuing Term, or in four Days after the End thereof, having given a Rule to declare in the proper Office, and having called on the Plaintiff's Attorney or Clerk in Court (if he can be found,) the Defendant any Time in the Vacation of ſuch enſuing Term, after the Rule for declaring is out, may ſign his *Non pros'* for Want of a Declaration, and not afterwards, and the Plaintiff ſhall not without the Leave of the Court have any longer Time to declare in than as aboveſaid, other than the Time to be limited by the Defendant's Rule; any Rule or

Practice to the contrary thereof notwithſtanding. *Common Pleas.*

VI. DECLARATIONS, *&c.* ſhall be demanded by a Note in Writing. Per *Notice fix'd up in the Offices.* Mich. 1 Geo. 2. Declaration to be demanded in Writing.

VII. IF the Plaintiff declare not the ſecond Term, tho' the Defendant give no Rules, yet a Nonſuit may be entred at the End of the ſecond Term upon a Continuance over by him entred by *dies datus*, but not the third Term, or after. *Mic.* 1654. Where *Non pros'* may be ſigned tho' no Rule given.

Nonſuit. Vide **Judgments** II. **Non pros'.**

Notices.

Vide **Bail** XX, XXII. **Declarations** XII, XIV. **Habeas Corpus** XIV, XXIII. **Motions. Priſoners** XI, XII.

I. NOTICES of Trials or Inquiries in *London* or *Middleſex* (the Defendant dwelling within forty Miles of *London*) to be eight Days excluſive of the Day wherein Notice is given. *Mic.* 1654. When 8 Days Notice of Trial, or of Inquiry in *London* or *Middleſex.*

II. IF the Defendant lives above forty Miles diſtant from *London*, Notice of ſuch Trials and Inquiries in *London* or *Middleſex* to be fourteen Days excluſive of the Day of Notice. *Same Rule.* When 14 Days Notice in *London* or *Middleſex.*

III. *Eight*

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Same Rule. What Notice of Trial or Inquiry muſt be in the Country.

III. *Eight* Days Notice excluſive to be given upon Trials in the Country, and upon Writs of Inquiry of Damages in Writs of Dower and Waſte, and all other Inquiries of Damages.

Same Rule. When new Notice of Trial is to be given in the Country.

IV. IF the Plaintiff give Notice of a Trial, and he proceed not, the Plaintiff not to take it down to Trial again without new Notice to be given, as is before expreſſed, unleſs by Conſent or Rule of Court.

Same Rule. When in *London* or *Middleſex*.

V. BUT in *London* or *Middleſex*, if Notice be given of a Trial for one Sitting, and the Plaintiff be not provided to proceed: If he give Notice before that Sitting, that he will try it the next Sitting, that to be held convenient Notice.

Same Rule. Of Coſts for not Proceeding to Trial according to Notice.

VI. IN Caſe of ſuch Warning and no Proceeding, the Defendant upon Motion to have his Coſt of his former Attendance, to be taxed by the Prothonotary; unleſs the Plaintiff give the Defendant Warning in convenient Time, that he would not proceed; or ſhew Cauſe to be allowed by the Court in Excuſe of ſuch Coſts.

Same Rule. Notice of Trial by *Proviſo*.

VII. IF the Plaintiff give Notice of Trial and proceed not, the Defendant may take it by *Proviſo*, according to Law, giving Notice eight or fourteen Days as the Caſe requireth, as aforeſaid,

VIII. IN *London* or *Middleſex*, if no Warning for a Trial, then the Defendant not to take it by *Proviſo*, to try it the ſame Term; but afterwards he may take it by *Proviſo*, giving eight or fourteen Days Notice, as the Caſe requires. *Common Pleas.* *Same Rule.*

IX. IF Notice be given to the Attorney of the adverſe Party of a Trial upon an Iſſue joined, it be taken to be good Notice: And Oath made of Want of Notice to the Attorney, to turn the Proof Notice given to the Party, upon him that brought it down to Trial in that Caſe. *Same Rule.*

X. IF an Iſſue be joined above a Year ſince in any Caſe, then one Term's Notice to be given of the Trial. *Same Rule.* Where a Term's Notice muſt be given of Trial.

Note; It muſt be given before the Eſſoin-Day of the Term.

XI. IN all Caſes where the Plaintiff concludes *ad patriam*, the Defendant's Attorney or Clerk in Court, ſhall be bound to accept of Notice of Trial upon the Back of ſuch Pleading, whether the ſame be delivered to the Defendant's Attorney or Agent, or left in the proper Office, where the ſame may be left by the Courſe of the Court: And ſuch Notice of Trial ſo given, or left as aforeſaid, ſhall be as good and effectual, as if Iſſue had been actually joined. *Trin. 2 Geo. 1.* Notice of Trial tho' Iſſue not joined.

This Rule was made to prevent Delays in trying Cauſes where the Plaintiff in Pleading concludes ad patriam, *the Defendant not being obliged to join Iſſue, or demur 'till a*

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fourth Day Rule to rejoin, &c. is expired. And afterwards it being observed, that notwithstanding the said Rule Plaintiffs were delayed by Reason of Defendant's Attornies not being obliged to take the like Notice of executing Writs of Inquiry; therefore it is ordered that,

Hill. 6 *Geo.* 1. When Notice of Inquiry must be accepted from the Time of Notice of Trial.

XII. IN every Cauſe where the Plaintiff concludes *ad patriam*, and giveth Notice of Trial upon the Back of his Pleading, if the Defendant doth not join Iſſue on ſuch Pleading before the Rule be out, in every ſuch Caſe after Judgment obtained, the Defendant's Attorney ſhall be obliged to accept of Notice of executing a Writ of Inquiry, from the Time that Notice of Trial was given on the Back of ſuch Pleading as aboveſaid.

But no Proviſion being made in Caſes where Defendants demur to the Plaintiff's Declaration, and by that Means give great Delays to Plaintiffs, becauſe by the ſaid Rules Defendants are not obliged 'till after Judgment obtained to accept of Notice of executing a Writ of Inquiry; it was therefore afterwards ordered that,

Trin. 1 *Geo.* 1. When Notice of Inquiry may be given on the Back of Demurrer.

XIII. IN all Caſes where the Defendant demurs to the Plaintiff's Declaration, the Defendant's Attorney or Clerk in Court ſhall be obliged to accept of Notice of executing the Writ of Inquiry on the Back of ſuch Joinder in Demurrer. And where the Defendant pleads ſuch a dilatory Plea that the Plaintiff is obliged to demur to, in ſuch Caſe the Defendant's

dant's Attorney or Clerk in Court ſhall be obliged to accept of Notice of executing a Writ of Inquiry on the Back of ſuch Demurrer. *Common Pleas.*

XIV. NO Countermand of Trial at the Aſſizes ſhall be good, unleſs Notice be given two Days before the Commiſſion-Day. *Mic. 3 Geo. 1.* What countermand good at Aſſizes.

N. B. *No Countermand to be given on a* Sunday.

XV. ALL Declarations and Pleadings ſhall be delivered, all Demands made, and all Notices given before nine o'Clock in the Evening. *The Rule made* Mich. 8 Geo. 2. *diſcharged.* *Eaſter* 10 G. 2. Notices, *&c.* to be delivered before nine in the Evening.

XVI. Defendant ſhall be intitled to Coſt, if Plaintiff don't execute his Writ of Inquiry purſuant to Notice, or countermand the ſame in due Time. *Trin.* 13 Geo. 2. Coſt for not executing Inquiry.

Officers and Offices of the Court.

Vide Attachment of Privilege II. Attornies XVII. Fines.

I. THE Deputy-Sheriffs and all other Officers of the Court to appear perſonally (*in Court*) by the Eſſoin-Day of every ſecond Return of every Term; and continue there during the Reſidue of *Mic.* 1654. Officers to appear in Court.

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the Term, without ſome juſt Cauſe to the contrary allowed by the Court.

Same Term. Proceedings to continue in one Prothonotary's Office.

II. THE whole Proceedings of any Cauſe after Appearance, to be carried on in the Office of that Prothonotary, where it was firſt entred, or Declaration delivered.

Original.

Vide Appearances II. Habeas Corpus XX. Outlawries IV.

Mic. 30 *Car.* 2. To warrant Proceedings.

I. ATTORNIES *having ſued forth original Writs in Treſpaſs, and thereupon taken out Proceſs of* Capias, Alias, *and* Pluries, &c. *and afterwards declared, and proceeded to Judgment, without ſuing forth a new Original to warrant ſuch Declarations and Judgments contrary to Law, and in Fraud of the Great Seal of* England, *Fines upon Originals, and the Duty,* (therefore) FOR the Future no Attorney for the Plaintiff ſhall preſume to deliver, or Attorney for the Defendant to receive, by himſelf or his Agents, any Declarations without an Original proper to the Cauſe of Action firſt ſued forth to warrant the ſame.

Outlawries.

Vide Ball I. Pleas III. Genue III.

I. NO Exigenter ſhall receive any *Pluries Capias*, in order to make an Exigent or Proclamation thereon before the ſame be ſigned or ſtamped by the Clerk of the Warrants or his Deputy, that it may appear that the Warrants of Attorney therein are duly filed.

Hill. 2 & 3 *Jac.* 2. *Pluries* to be marked by Clerk of the Warrants before Exigent or Proclamation.

II. ACCORDING to the Statute 31 *Eliz.* All Attornies that ſue out Proceſs of Exigent to be careful that Writs of Proclamation be delivered, the Sheriff to take Care duly to execute the ſame.

Mic. 1654. Of executing Proclamation.

III. NO Under-Sheriff or County-Clerk of any County within this Realm, nor any Attorney or other Miniſter of this Court, ſhall return, or cauſe to be returned upon any Writ of *Exigi Facias*, iſſuing out of or returnable in this Court any falſe Return of *Reddidit ſe*, where in Truth the Defendant hath not rendred himſelf to the Sheriff. AND no Clerk, Attorney, or other Miniſter of this Court ſhall enter or Cauſe to be entred any *Retraxit* with any Under-Sheriff, County-Clerk, or other Miniſter, upon any Writ of *Exigi Facias*, iſſuing out of and returnable in this Court, until the ſame *Retraxit* be entred upon the ſame Roll upon which the ſaid *Exigent* is awarded

Eaſter 24 *Car.* 2. Of returning Exigent.

Of *Retraxit*.

Common Pleas.

No Proceedings to prevent the Fees of a *Superſedeas quia improvide.*

warded of that preſent Term in which the ſame is returnable. And no farther Proceedings to be in that Cauſe after the Party outlawed by Filing a new Original, or by any other Means or Ways whatſoever, to deceive the King of his Seals, and the Officer of the *Superſedeas* Office of his juſt Fees, for making and ſigning of the Writs of *Superſedeas quia improvide*, to ſuch Writs of *Exigent*, or any other Officers of their juſt Fees. AND no Under-Sheriff, or County-Clerk aforeſaid, or other Miniſter of the ſaid Court, ſhall receive any *Superſedeas*, or allow any ſuch Writ upon his or their Books or Files, until the ſame be duly ſigned by the proper Officer of the ſaid Office, and alſo ſealed.

Superſedeas to be duly ſigned and ſealed.

Mic. 1654. Appearance and Bail on Reverſal of Outlawry.

IV. HE that reverſeth an Outlawry to have an Attorney of Record preſent, who muſt undertake an Appearance to a new Original, and ſuch Attorney ſhall be compelled to appear; and the Defendant or his Attorney to give Notice to the Plaintiff or his Attorney of ſuch Reverſal the ſame Term, or in the Vacation next after it.

Mic. 13 *Geo.* 1.

V. BEFORE reverſing an Outlawry be had by Plea or otherwiſe, thro' or by Want of any Proclamation to be had or made, according to the Form of the Statute in that Caſe made and provided, the Defendant in the original Action, ſhall put in Bail, not only to appear and Anſwer to the Plaintiff in the former Suit,

in

in a new Action to be commenced by the said Plaintiff for the Cauſe mentioned in the firſt Action, but alſo to ſatisfy the Condemnation, if the Plaintiff ſhall begin his Suit before the End of two Terms next after the Avoiding the Outlawry. *Common Pleas.*

VI. FORASMUCH as divers Sheriffs, Bailiffs of Liberties, and their Bailiffs reſpectively have of late Time contrary to Law, and againſt former Orders of this Court, diſcharged Perſons taken upon Outlawries without *Superſedeas*; it is declared that ſuch Dealing is an Abuſe; and all ſuch, who have or ſhall diſcharge ſuch Perſons without *Superſedeas*, ſhall be ſeverely puniſhed. And no Sheriff, Under-Sheriff, their Deputies or Bailiffs, may from henceforth diſcharge, or ſet at Liberty any Perſon or Perſons arreſted upon any *Capias utlagatum*, 'till he receives a *Superſedeas*. *And likewiſe afterwards ordered that,* *Mic.* 1654. Perſons taken upon Outlawries not to be diſcharged without a *Superſedeas.*

VII. NO Sheriff, Under-Sheriff, Sheriff's Clerk, Deputy or Bailiff, nor any Steward, Bailiff of Franchiſe, Coroner or their Clerks or Deputies ſhall ſet at Liberty any Perſon taken upon any Writ of *Capias Utlagat'*, nor diſcharge the Lands or Goods of any Perſon outlawed by them ſeiſed upon any Writs of *Capias Utlagatum*, without a lawful Writ of *Superſedeas* under the Seal of this Court to them delivered for ſuch Diſcharge, according to the Statute of the 13th of his Majeſty's Reign, (i. e. 13 *Car.* 2.) And *Hill.* 15 & 16 *Car.* 2. Lands or Goods not to be diſcharged without a *Superſedeas.*

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no *Superſedeas* to be made, or iſſued out of this Court by any Officer, Clerk, Attorney, or Miniſter of the ſame, without ſufficient Bail firſt taken according to Law, and former Orders and Uſages of this Court, upon Pain of incurring the ſevereſt Puniſhment, which according to Law and Juſtice can be inflicted upon the Offenders.

Bail.

Mic. 17 Car. 2. Trin. 2 Jac. 2.

VIII. IF any Sheriff, or Officer whatſoever ſet at Liberty any Perſon arreſted upon a *Capias Utlagat'* before Judgment without a lawful *Superſedeas* firſt delivered unto him; upon Affidavit thereof made and filed, every Perſon offending therein ſhall pay 40*s.* to the Party grieved, or complaining; who ſhall have an Attachment of Courſe againſt the Sheriff, Officer, or Party offending for the Payment of the ſame, and the Party ſo offending ſhall likewiſe undergo ſuch other Puniſhments as by this Court ſhall be thought fit.

Trin. 2 Jac. 2.

Of reverſing Outlawry after the Plaintiff's Death.

IX. NO Outlawry after the Death of the Plaintiff in the Action ſhall be reverſed without the Defendant's Appearance, and putting in ſpecial Bail, (if the Action ſo requires,) to the Executor or Adminiſtrator of the Plaintiff, or to the Husband and Wife in Caſe where the Wife, whilſt a *Feme Sola*, ſued the Defendant to an Outlawry before Marriage, provided the Plaintiff's Attorney to the Writ of *Exigent* or *Capias Utlagatum* do within fourteen Days after Notice to him given

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given of the Defendant's Intention to reverſe ſuch Outlawry, * the Name or Names of the Executor or Adminiſtrator of ſuch Plaintiff deceaſed to the proper Prothonotary.

* Deliver.

X. UPON every Writ of *Exigent* which ſhall be ſued forth of this Court, if a *Superſedeas* be not put in thereto at or before the Day of Appearance thereof; no *Superſedeas* ſhall by any Sheriff be allowed as an Appearance to any ſuch Writ until the Defendant ſhall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries the full and juſt Coſts of Suit, to be taxed by the ſaid Prothonotary. AND upon reverſing every Outlawry the Defendant ſhall, before the Reverſal thereof or any *Superſedeas* made thereto, give ſpecial Bail, if the Sum of Money or Damages expreſſed in the original Writ, whereupon the *Exigent* was awarded, ſhall amount to the Sum of 10 *l.* and pay to the Plaintiff or his Attorney, or leave in the Court for him his full and juſt Coſts of Suit to the *Exigent* as aforeſaid.

Trin. 2 *Jac.* 2. To the ſame Effect, and nearly *verbatim*, in *Mic.* 17 *Car.* 2. Of paying Coſts on reverſing Outlawries.

Where ſpecial Bail is required.

And by a later Rule as to ſuch Coſts.

XI. THE Defendant upon reverſing an Outlawry ſhall pay the Plaintiff the uſual Coſts of the *Exigent* together with the King's Fine (if any) and all further Coſts ſhall be reſpited until the Time of ſigning Judgment for the Plaintiff. AND if the Plaintiff does not proceed within

Trin. 33 *Car.* 2.

Coſts for Want of the Plaintiff's Proceeding.

Common Pleas.

within two Terms after Notice of the Reverſing the Outlawry, the Defendant ſhall have his Coſts to be taxed by the Prothonotary.

Trin. 2 Jac. 2. Of Coſts after the Inquiſition and Extent in the Exchequer.

XII. WHERE the Plaintiff by Virtue of an Outlawry hath taken an Inquiſition and extended into the King's Hands the Goods, Chattels, Lands or Tenements of the outlawed Perſon, and returned the ſame into the Exchequer, ſuch further juſt and reaſonable Coſts ſhall then be taxed by the Prothonotary *, and paid to the Plaintiff or his Attorney, or left in Court as the Plaintiff hath been at in taking and proſecuting the ſaid Inquiſition, before any Certificate of ſuch Reverſal ſhall be made by the Clerk of the Outlawries in that Behalf.

** But ſee the next (a ſubſequent) Rule where Coſts are to be taxed by the King's Remembrancer.*

But afterwards ordered that,

May 13. 1689.

XIII. WHERE any Outlawry ſhall be tranſcribed into the Court of Exchequer and Proceſs made out thereupon, and afterwards ſuch Outlawry ſhall be reverſed before any Judgment ſhall be entred for the Removing the King's Hands, and the Party outlawed reſtored to his Poſſeſſion, the Proſecutor of ſuch Outlawry ſhall be paid ſuch Coſts as ſhall be taxed by their Majeſties Remembrancer or his Deputy for the Proceedings in the ſaid Court.

Paſ. 24 Car. 2. Of Declarations.

XIV. NO Attorney or other Miniſter of this Court, either for Plaintiff or Defendant ſhall give or receive any Copy of a Declaration founded upon any Writ of

of *Exigi facias*, until a *Superſedeas* be duly ſigned and ſealed, and allowed with the Sheriff, Under-Sheriff or his Deputy of the County where the *Exigent* is laid. *Common Pleas.*

XV. IF Bail be given upon Reverſal of an Outlawry, the Original to be ſhewn, upon tendring the Declaration, otherwiſe the Bail are not liable, unleſs the Party or his Attorney will voluntarily appear, or take a Declaration without ſhewing it. *Mic.* 1654. Original to be ſhewn on delivering Declaration.

XVI. IN Caſe of a Reverſal, the new Original to agree in the Nature of the Action, the Sum in Demand, and the County, otherwiſe the Bail not liable; but if the Party will voluntarily appear to ſuch varying Original, to be good as to the Party. *Same Rule.* New Original to agree in the Nature of the Action, &c.

Dyer.

OYER of Writs, Bonds, and other Deeds ſhall be demanded by a Note in Writing. Per *Notice fix'd up in the Prothonotaries Offices.* Mic. 1 Geo. 2.

Pleas.

Vide Appearances V, VI. Declarations VIII, XII, &c. Demurrers II. Habeas Corpus XXIII. Priſoners. Rules.

Mic. 1654. Where common Bar and new Aſſignment to be forborn.

I. THE common Bar and new Aſſignment to be forborn, where the Declaration contains the Certainty equivalent to a new Aſſignment.

Same Rule. And unneceſſary Repetitions.

II. PLEADINGS to be ſuccinct, without unneceſſary Repetitions.

Same Rule. Of Pleading an Outlawry.

III. IN the Pleading of an Outlawry the meſne Proceſs not to be repeated, but the *Exigent* and Outlawry joined to the commencing of the Suit.

Same Rule. General Statute.

IV. IN Pleading a general Statute, the Statute not to be recited, as the Statute of 21 *Jac.* of Limitations.

Mic. 1654. When Pleas to be delivered,

or

Left in the Office.

V. THE Plaintiff having declared and given Rules for Anſwer, the Defendant is to deliver his Plea in Writing to the Plaintiff's Attorney or known Clerk. BUT if there be no ſuch Attorney or Clerk to be found, or being found, refuſeth to accept it, then the Plea may be left in the Office to ſave a Judgment. And where a Plea is left in the Office,

Common Pleas.

no Judgment for Want of a Plea to be entred.

Mic. 1 Geo. 2. When to plead on ſpecial Proceſs.

VI. IN Caſe of ſpecial Writs returnable the firſt Return of *Hillary* or *Trinity* Term, and the firſt or ſecond of *Eaſter* or *Michaelmas*, the Defendant to plead in (*a*) four Days after the Appearance-Day of the Return of ſuch Writ; and in Caſe of a common *Capias* or any * *other* ſpecial Writ, within the firſt four Days of the next Term, or Judgment may be entred againſt the Defendant by Default. *Vide more of this Rule Title* Declarations XII.

(*a*) *But ſee the following Rules.*

* i. e. *Any common or ſpecial Writ not returnable as before-mentioned.*

But afterwards ordered that,

Mic. 3 Geo. 2. When to plead on Proceſs returnable the firſt or ſecond Return.

VII. UPON all Proceſs of this Court returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*, ſuch Defendant ſhall plead within four Days after Declaration delivered without any Imparlance; and ſuch Declaration may be delivered *De bene eſſe*. And in Caſe the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, the Defendant ſhall plead within eight Days after the Declaration delivered, without any Imparlance; and in Default of Pleading as aforeſaid the Plaintiff may ſign his Judgment.

AND notwithſtanding any Thing to the contrary in the Rule of Mic. 1 Geo. 2. (*which ſee before* § VI.) *the above Times*

to

Common Pleas. *to plead are by the following Rule further confirmed.*

Easter 3 Geo. 2. VIII. ALL Declarations in *London* or *Middlesex*, delivered pursuant to the (*a*) Rule made last *Michaelmas* Term, on Process returnable the first or second Return of any Term, where the Defendant lives within twenty Miles of *London*, shall be delivered with Notice that the Defendant plead within four Days after Declaration delivered; and all Declarations in any other County, or the Defendant lives above twenty Miles from *London*, shall be delivered with Notice to plead within eight Days after Declaration delivered.

(*a*) *See the Rule in the last Section.*

Per Notice fix'd up in the Prothonotaries Offices. Mic. 1 George 2. IX. PLEAS, Replications, and other Pleadings, shall be demanded by a Note in Writing. *But,*

Demanding Pleas, *&c.*

Same Term. X. WHERE the Declaration is filed and Notice thereof given, there is no need of further calling for a Plea. Vide *Title* Declarations XII.

East. 10 Geo. 2. XI. ALL Pleadings shall be delivered, all Demands made, and all Notices given before nine o'Clock in the Evening.

Pas. 24 Car. 2. Amending Plea. XII. NO Defendant shall be permitted to amend his Plea 'till Appearance be entred.

Poſteas.

I. THE Clerks of the Aſſize, their Deputies or Aſſiſtants, ſhall perſonally appear with their *Poſteas* on the firſt Day of *Eaſter* and *Michaelmas* Term.

Mic. 1654. Clerk of Aſſize to appear in Court with *Poſteas*.

II. WHERE a Verdict is given for the King upon a *Qui Tam* Action, the *Poſtea* on the firſt Day of the Term next after the Verdict given ſhall be delivered to the Prothonotary in whoſe Office the Cauſe is, and Judgment thereupon ſhall be entred on Record, ſo that the Part of the Penalty belonging to the King may be levied. And when Judgment is entred on Record, a Note or *Præcipe* of the Record with the Number of the Roll ſhall be delivered by the Clerk of the Judgments to the Clerk of the Warrants that the Sum or Fine of the King by the Clerk of the Warrants amongſt other Sums of the King ſhall be eſtreated; and the Clerk of the Warrants when he receives ſuch Note or *Præcipe* ſhall ſet his Hand to the Clerk of the Judgments's Paper of Entries of the aforeſaid Judgments.

Eaſt. 34 *Car.* 2. *Poſteas* on *Qui Tam* Actions.

III. EVERY Clerk of Aſſize of the reſpective Circuits within this Realm, and alſo the Aſſociate to the Lord Chief Juſtice of this Court, ſhall make Returns of all *Poſteas* upon all Records of this Court,

Paſ. 2 *Jac.* 2. Of returning *Poſteas* and taking the Fees at Trial.

Common Pleas. Court, whereupon any Proceedings have been, by Virtue of any Writ of *Niſi prius*, *Diſtringas*, *Habeas Corpora Jur'*, and ſhall cauſe the ſame to be delivered to the reſpective Prothonotaries upon the *quarto die poſt*, of the Return of the Writ of *Niſi prius* in Bank, upon Pain of forfeiting 20*l.* to be eſtreated into the *Exchequer*; and to take away all Pretence of Excuſe, the Clerks of Aſſize in the Circuits, and alſo the Aſſociate in *London* and *Middleſex*, at the Trial of every Cauſe by Record of *Niſi prius* of this Court, ſhall take the Fees due to them reſpectively, for the Return of every ſuch *Poſtea*.

Vide *Notes on Title* **Poſteas** in the firſt Part.

Priſoners.

Vide **Bail-Bonds** I. **Bringing in the Body. Habeas Corpus.**

Of Proceeding againſt them in County Gaols.

Paſ. 5 W. & M. &c. I. 1*ſt*, NO Copy of any Declaration ſhall be delivered to a Priſoner in Cuſtody until after the (*a*) Pro-

Declaration when delivered.

or other County and it muſt be

(*a*) *If Defendant be a Priſoner in* Newgate, Ludgate, *Gaol, there muſt be a Proceſs to charge him in Cuſtody; firſt entred with the Prothonotary.*

ceſs upon which ſuch Priſoner ſhall be taken or charged in Cuſtody be returnable. *Common Pleas.*

II. *2dly*, NO Rule ſhall be given for the Defendant in Cuſtody to appear and plead to any Declaration againſt him 'till an Affidavit be filed with the proper Secondary of the Delivery of the Copy of ſuch Declaration, and of the Time when, and the Perſon to whom the ſame Copy was delivered (*a*); and a Copy of the ſaid Affidavit ſhall be produced to the Prothonotary before Judgment ſigned, together with a Certificate from the proper Officer, that no Appearance is entred with him.

Affidavit of Delivery before Rule to appear and plead.

(*a*) *And 'tis neceſſary to ſay, that the Turnkey acknowledged Defendant at the ſame Time to be a Priſoner. You make a Copy of the Declaration on Stamp, and annex the above Affidavit to it, which you carry to the Secondary, and give a Rule to plead before Judgment can be ſigned.*

III. *3dly*, IF a Copy of the Declaration be delivered before *Menſem Paſchæ* or *Craſtinum Animarum*, and Affidavit thereof made and filed, and the Defendant doth not enter his Appearance with the proper Officer within ten Days after *Eaſter* or *Michaelmas* Terms reſpectively, Judgment may be entred againſt him upon the Certificate as aforeſaid, if Rules have been given; but if he doth not enter his Appearance, as aforeſaid, before the End of ten Days after the Term, he ſhall imparl until the next Term unleſs the Action be in *London* or *Middleſex*, and the Defendant be in Priſon within forty Miles of *London* and *Weſtminſter*, then tho' he doth appear before the Ex-

Declaration delivered before the 3d Return of *Eaſter* or *Michaelmas* Terms, when to plead.

Common Pleas.

piration of ten Days after the End of the Term, he ſhall plead two Days before the Eſſoin-day of the next Term, and in Default thereof Rules having been given, Judgment may be entred againſt him, as aforeſaid.

Or if delivered after the 3d Return in *Eaſter* or *Michaelmas* Terms, or in *Hillary* or *Trinity* Terms, when to plead.

IV. *4thly*, IF a Copy of the Declaration be delivered on or after *Menſem Paſchæ* in *Eaſter* Term, or *Craſtinum Animarum* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and the Plaintiff thereupon ſhall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Eſſoin-Day of the next Term, he ſhall imparl until the ſaid next Term; but if he doth not appear within that Time, Judgment may be entred againſt him, as aforeſaid.

Writ returnable in one Term, and Declaration delivered before the Eſſoin-Day of the next, when to plead.

V. *5thly*, IF a Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Eſſoin-day of the next Term, the Plaintiff in ſuch next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and plead by the Time that the Rules are out, Judgment may be entred againſt him, as aforeſaid.

When a *Superſedeas* may be iſſued for Want of Declaration.

VI. *6thly*, IF the Declaration be not entred or left in the Office before the End of the next Term, after the Writ or Proceſs (by which the Priſoner ſhall be taken or charged in Cuſtody) be returnable, and an Affidavit made and filed in Manner aforeſaid, before the End of * twenty Days after ſuch Term (*Eaſter* Term excepted,

* *But ſee hereafter.*

excepted, and within ten Days after *Eaſter* Term) the Priſoner ſhall be diſcharged upon entring his Appearance with the proper Officer, by Writ of *Superſedeas*, according to antient Practice. *Vide poſt, Concerning diſcharging Priſoners.* *Common Pleas.*

VII. *7thly*, IF any Gaoler or Keeper of Priſon, having received a Copy of a Declaration againſt any Priſoner in his Cuſtody, ſhall ſuppreſs the ſame, and not deliver it forthwith to ſuch Priſoner an Attachment ſhall be iſſued againſt him. Gaoler to deliver Declaration to the Priſoner immediately after he receives it.

N. B. *For the Times of Declaring, Proceeding to Judgment or Execution, vide poſt from* IX to XII.

Proceedings againſt them in the Fleet.

VIII. NO Copy of a Declaration delivered at the *Fleet* Priſon againſt a Priſoner there, ſhall be a ſufficient Charge to hold ſuch Priſoner to Bail, or to retain ſuch Priſoner in Cuſtody for Want of Bail; unleſs an Affidavit, that the Plaintiff's Cauſe of Action amounts to 10*l.* or upwards, be firſt made and filed in the proper Prothonotary's Office, and an Indorſement made by the ſaid Prothonotary, or his Deputy, upon ſuch Copy of a Declaration, ſignifying the Sum of Money ſpecified in ſuch Affidavit, for which *Hill* 8 *Geo.* 2. How to hold a Priſoner in the *Fleet* to Bail.

Common Pleas. Sum ſo indorſed Bail ſhall be required, and for no more.

For the Time of Declaring, Proceeding to Judgment and *Execution*, vide *the three following Sections.*

Note; *The Declaration muſt be entred before it be delivered to the Clerk of the Papers of the* Fleet. *And there's no Need of Proceſs to charge a Priſoner in Cuſtody there, as there is in* Newgate, Ludgate, *or other County Gaols.*

Of Diſcharging them.

Mic. 1654. Of diſcharging Defendant for Want of Declaration.

IX. IF the Defendant be committed to Priſon by Proceſs out of this Court, or *Habeas Corpus*, the Priſoner entring his Appearance with the Prothonotary in caſe of a Plaint, or an Attachment of Privilege; or with the Filazer in Caſe of other Proceſs, and giving Rule to declare, the Plaintiff not declaring before the End of the next Term after the Commitment, the Defendant to be diſcharged by *Superſedeas* in the End of the next Term, and Liberty for the Plaintiff to declare upon that Appearance the next Term after that at the furtheſt.

Hill. 14 & 15 *Car.* 2.

X. IF the Plaintiff does not remove the Defendant to the *Fleet* by *Habeas Corpus*, and the Priſoner enter Appearance (* *as aforeſaid*) he may be diſcharged by *Superſedeas* in the End of the third

* *Vide Title* Habeas Corpus *for the former Part of this Rule.*

third Term after the Arreſt, according to the Courſe antiently uſed, and the Plaintiff may declare upon ſuch Appearance the Term following, but not after; but if ſuch Priſoner cauſe Appearance to be entred for him by Attorney, and cauſe Notice thereof to be given to the Plaintiff or his Attorney, and if Oath thereof be made in Writing and filed in Court, unleſs the Plaintiff declares againſt him in the Term after ſuch Appearance, he may be diſcharged by *Superſedeas*, ſo as Oath be made by the Attorney for the Defendant, that no Declaration hath been delivered, or tendered to him. And the Plaintiff may declare againſt the Defendant the Term next after ſuch Appearance entred, but not afterwards. *Common Pleas.*

XI. IF any Defendant ſhall render himſelf, or be rendred to the *Fleet* Priſon in Diſcharge of his Bail, at the Suit of any Plaintiff, where no further Proceedings by Declaration has been had againſt ſuch Defendant before ſuch Render, unleſs the Plaintiff ſhall declare againſt ſuch Defendant within two Terms after ſuch Render; and where any Declaration hath been delivered againſt ſuch Perſon ſo rendring himſelf, or being rendred, or Judgment has been had againſt him before ſuch Render, unleſs the Plaintiff ſhall proceed to Judgment upon ſuch Declaration delivered within three Terms after ſuch Render (the Defendant having appeared,) and charge ſuch Defendant in Execution *Eaſt.* 8 *Geo.* 1. When Priſoner diſcharged after Surrender for Want of Declaration. Judgment. Execution.

Common Pleas. within two Terms after ſuch Judgment obtained, ſuch Defendant may be diſcharged out of Cuſtody, by *Superſedeas*, to be allowed by one of the Juſtices of this Court, if Cauſe be not ſhewn to the contrary by the Plaintiff or his Attorney, upon Notice to either of them, given by the Defendant's Attorney or Agent, and Oath made of ſuch Notice given.

Eaſter 8 *Geo.* 1. Of diſcharging Priſoners for Want of Proceeding to Judgment.

XII. IF any Plaintiff ſhall declare againſt any Defendant in the Cuſtody of the Warden of the *Fleet* Priſon, or of any Sheriff, or other Officer, and ſhall not proceed to Judgment within three Terms after Declaration delivered, inclusive of the Term in which the Declaration ſhall be delivered, the Defendant having appeared, or if any Plaintiff having obtained Judgment in any Action againſt any Defendant, a Priſoner, as aforeſaid, and ſhall not charge ſuch Defendant, ſo remaining a Priſoner in Execution upon the Judgment ſo obtained within two Terms next after ſuch Judgment, including the Term in which Judgment ſhall be ſigned, then ſuch Defendant may be diſcharged out of Cuſtody by *Superſedeas*, to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn by the Plaintiff, or his Attorney, why ſuch Plaintiff had not proceeded to Judgment and Execution, as aforeſaid, upon Notice to either of them given by the Defendant's Attorney or Agent,

Or charging Defendant in Execution.

Agent, and Oath made of ſuch Notice given. *Common Pleas.*

XIII. IN all Caſes where a Priſoner in the *Fleet*, or other Gaol or Priſon, is diſcharged, or ordered to be diſcharged by this Court, or any of the Juſtices thereof, by *Superſedeas* for Want of Proſecution, and ſuch Priſoner be afterwards arreſted, or detained in Cuſtody by Action of Debt, brought upon Judgment obtained in the Cauſe wherein ſuch Priſoner was ſo diſcharged, or ordered to be diſcharged; a common Appearance ſhall be accepted for the Defendant in ſuch Action. *Hill.* 8 *Geo.* 2. Of Arreſt after Diſcharge.

Rules for the Well-governing of the Fleet-*Priſon.*

XIV. ALL the Orders or Rules hereunder, eſtabliſhed purſuant to the Statute 2 *Geo.* 2. intituled, *An Act for the Relief of Debtors with Reſpect to the Impriſonment of their Perſons*, to be kept as well by the Warden and his Officers and Servants, as by all the Priſoners. AND this with the Rules aforeſaid to be fixed up in the Hall of the Priſon, for the Uſe and Inſpection of the Priſoners. *Hill.* 3 *Geo.* 2. *per Cur'.*

XV. 1. THE Warden or Deputy, to appoint ſo many of the Houſhold Servants as to either of them ſhall ſeem good, Warden to appoint Houſehold Servants.

Common Pleas. to open and ſhut the two outer Gates, at ſuch Hours as the Gates of *Ludgate* and *Newgate*, and the ſaid Perſons to carry Halberts, Bills, or other Weapons, as ſhall ſeem good unto the Warden or Deputy.

And may diſarm Perſons coming into Priſon.

XVI. 2. THE Warden or Deputy to take Order, that no Perſon carry any Weapon further than the Porter's Lodge, unleſs licenſed to keep the Gate.

Watch.

XVII. 3. THE Warden or Deputy, and ſo many of the Houſhold as needful, to keep Watch in Harneſs or otherwiſe at all Times as he ſhall ſee Cauſe for his Safeguard.

Poor's Box.

XVIII. 4. THE Warden to order the Money gathered at the Box, or otherwiſe given for the Diſtribution amongſt them, if any Contention ariſe, the poor Men ſhall keep one Key, and the other to be at the Warden's Appointment.

Made 17 *Feb.* 1687. Chamber-Rent.

XIX. 5. IF the Priſoners on the Maſter's Side refuſe, or be not able to pay Chamber-Rent, then the Warden may turn them out into the Wards, but no Priſoner to be confined for Non-payment of Chamber-Rent, but all to have liberty of Walking in the Fore-yard, Hall, and Cellar in the Day-Time; the Wards Gate in the Day-Time to ſtand open, and to be opened at Five in the Morning in Summer, and Seven in Winter.

Opening and ſhutting the Gate.

XX. AND

XX. AND the Warden may ſhut the Ward Gates at Nine at Night in Winter, and Ten in Summer, provided he keep a Watch to attend to let out and in ſuch as have Occaſion to go to the neceſſary-houſe. *Common Pleas.*

XXI. 6. THE Warden not to detain or imbezil any Priſoner's Goods, but may detain his Perſon after diſcharged by his Creditors, 'till the Fees paid. Fees.

XXII. 7. THE Warden to provide a Dungeon for Perſons that endeavour to eſcape, or guilty of other great Miſdemeanor, Dungeon.

And after being informed that ſuch a Room was provided, for a further Regulation ordered that,

XXIII. 8. THE Warden do keep the Chapel in Repair, and take care that Divine Service be performed, according to the Uſe of the Church of *England*, and all Priſoners to attend, and not be abſent without reaſonable Cauſe. Chapel.

XXIV. 9. AND no Chaplain of the *Fleet*, or any Clergyman being a Priſoner within the Walls or Rules, to preſume to marry any Perſon without Licenſe, and the Warden and Officers to uſe their utmoſt Diligence to prevent ſuch Marriages. Marriages.

XXV. 10. THE Warden to cauſe the Stocks to be kept up, for the Puniſhment of ſuch Priſoners as blaſpheme, ſwear or behave themſelves diſorderly. Stocks.

XXVI. 11.

Common Pleas. Chambers.

XXVI. 11. NO Priſoner to take Poſſeſſion of any Chamber, but with Conſent of the Warden or Deputy, or pull down any Partition, or make any material Alteration, without the Conſent of the Warden or Deputy, but the Diſpoſal of the Rooms to be in the Warden or Deputy, yet ſo as neither of them turn any out of Poſſeſſion, without Cauſe, and Priſoners on Diſcharge to deliver to the Warden, his Deputy or Chamberlain, the Key of his Chamber, and all the Warden's Furniture therein.

Chamber-Rent.

XXVII. 12. THE Warden or Deputy, may turn any out of his Chamber to the common Side, that refuſe or neglect to pay Chamber-Rent for three Months; and the Warden or Deputy, ſhall in ſuch Caſe take an Inventory of the Priſoner's Goods and Effects (if any) ſigned by two Witneſſes, and deliver them to ſuch Priſoner, but the Warden may ſtill detain the Priſoner, tho' diſcharged by the Plaintiff, or in any other Manner, until his Arrears of Chamber-Rent be paid.

Publick Room for ſelling Victuals or Liquors.

XXVIII. 13. NO Perſon ſhall keep any publick Room within the Priſon for ſelling Victuals or Liquors, without Leave from the Warden or his Deputy; Offender may be turned to the common Side, and the Warden and Deputy to take care that good Order be kept in ſuch publick Room as ſhall be allowed as aforeſaid.

XXIX. 14.

XXIX. 14. THE Warden to take Care that every Priſoner committed to his Cuſtody, be conveyed to the *Fleet*, without being carried to any publick Houſe, or the private Houſe of any Tipſtaff, Officer, or Miniſter of the *Fleet*, or of any Tenant or Relation of his without the free Conſent of the Perſon in Cuſtody, and no Garniſh ſhall be extorted by any Priſoner, from any Perſon committed. *Common Pleas.* Spunging-Houſe. Garniſh.

XXX. 15. THE Warden to cauſe a Table of the Gifts, expreſſing the Purpoſes for which given, to be fairly writ, and hung up in the Hall, and to take Care that no Priſoner be deprived of his Share of the Charities, or bear any Office which may intitle him to the Receipt or Diſpoſition thereof. Gifts. Charities.

XXXI. 16. EVERY Priſoner who ſhall make Oath before one of the Judges of the Court, from whence the Proceſs iſſued upon which he is taken or charged, or before a Commiſſioner impowered by ſuch Court, that he is not worth 5 *l.* and cannot ſubſiſt without the Charities belonging to the Priſoners of the *Fleet*, ſhall immediately be admitted to all Shares, Dividends, and Profits ariſing from ſuch Charities.

XXXII. 17. TWO Rooms marked Nine and Ten up the Chapel Stairs, ſhall be kept as an Infirmary, for the Priſoners on the common Side, who fall ſick of ſuch Diſeaſes as require their being removed, Infirmary.

Common Pleas. moved, and no Priſoner ſhall be obliged to lie in the ſame Bed with a diſeaſed Perſon.

Repairs. XXXIII. 18. THE Warden ſhall keep the Priſon-Houſe and Windows in Repair, and keep the Drains, Bog-Houſes, and Dunghill as clean and free from Noiſomneſs as poſſible.

Death of Priſoners. XXXIV. 19. WHEN any Priſoner dies within the Priſon, the Warden ſhall forthwith give Notice thereof to the Coroner, that he may inquire how he came by his Death; and the Warden ſhall detain the Body no longer than 'till the Coroner's Inqueſt have made their Inquiſition, which ſhall be done with all convenient Speed, and immediately after the dead Body ſhall be delivered to the Priſoner's Friends or Relations, if they deſire it, without Fee or Reward.

Habeas Corpus. XXXV. 20. THE Warden not to ſue out any *Habeas Corpus* to remove any Priſoner from the *Fleet*, to the *King's Bench Priſon.*

Commitment Book. XXXVI. 21. THE Warden ſhall keep a Book in which Commitments ſhall be entred (*verbatim*) within fourteen Days after Priſoner committed.

XXXVII. 22. THE Warden another Book of the Names of every Priſoner, at whoſe Suit, and the Time when brought to the *Fleet*, and the Court or Judge whereby committed.

XXXVIII. 23.

Common Pleas.

Tipſtaff's Book.

XXXVIII. 23. EVERY Tipſtaff, to whom any Priſoner ſhall be delivered at the Judge's Chambers, ſhall keep a Book, containing the Name of ſuch Priſoner, the Time when taken into Cuſtody, to be ſigned by ſuch Judge's Clerk, who is to keep another Book to be ſigned by the Tipſtaff.

Declaration Book.

XXXIX. 24. THE Warden ſhall keep a Book of all Declarations delivered to the Turnkey, containing the Names of the Parties, the Cauſe of Action, and the Time when delivered.

Book of Diſcharges.

XL. 25. THE Warden ſhall keep a Book of Diſcharges, ſpecifying how made, whether by the Plaintiff, by *Superſedeas*, or otherwiſe, which Entry ſhall be made within five Days after every Diſcharge.

Book of *Habeas Corpus*.

XLI. 26. THE Warden ſhall keep a Book of every *Habeas Corpus* upon which the Priſoner ſhall not be committed, or the Cuſtody altered, with the Return of ſuch *Habeas Corpus*.

Books to be in the public Office.

XLII. 27. ALL the Books before-mentioned, except the Tipſtaff's, ſhall be kept in the publick Office of the Clerk of the Papers; and all Perſons may reſort to them and take Copies.

Fees.

XLIII. 28. NO Clerk, Officer or Servant, belonging to any Judge of this Court, ſhall take any Fee for any Petition, Complaint, or Application, made by any Priſoner, founded upon theſe Rules,

or

Common Pleas. or concerning any Mis-government in the Fleet.

Treatment. XLIV. 29. *Lastly*, THE Warden and his Officers to treat the Prisoners with all Tenderness and Humanity, and the Prisoners to behave themselves towards the Warden with that Submission and Regard which the Law requires.

Easter and Trin. 13 Geo. 1. *In these Terms the Fees were considered on, and a Rule was made for the Regulation of them, but the same is altered by the following Rule:*

19 *January*, 3 Geo. 2. A TABLE of FEES to be taken by the Warden of the *Fleet* for Commitment, or coming into Gaol or Chamber-Rent there, or Discharge from thence in any *Civil Action*. Settled and established the 19th of *January*, 3 *Geo.* 2. pursuant to an Act, *for the Relief of Debtors in Respect to the Imprisonment of their Persons.*

Commitment Fees. Every Prisoner charged with one or more Actions (who at his own Desire shall go on the Master's Side) to pay the Warden for Commitment 1 *l.* 6 *s.* 8 *d.*

Every Prisoner charged with one or more Actions (who shall go on the common Side) not being intitled to partake of the Poor's Box. 13 *s.* 4 *d.*

Every Prisoner intitled to partake of the Poor's Box. 0 *l.* 0 *s.* 0 *d.*

Discharge. Every Prisoner to pay for his Discharge 7 *s.* 4 *d.*

Common Pleas.

Every Priſoner on the Maſter's Side, who at his own Deſire ſhall have a Bed to himſelf, to pay for Chamber-Room, Uſe of Bed and Bedding, and Sheets to the Warden, *per* Week 2 *s.* 6 *d.* Chamber-Rent.

If Two in a Bed, and no more, for Chamber-Room, Uſe of Bed, Bedding and Sheets, each to pay the Warden *per* Week 1 *s.* 3 *d.*

If the Priſoner finds his own Bed, Bedding and Sheets (which the Warden is not to hinder him of) to the Warden, *per* Week 1 *s.* 3 *d.*

Two Priſoners in one Bed, finding their own Bed, Bedding and Sheets, then each of them *per* Week 7 *d.* ½

Priſoner not being intitled to partake of the Poor's Box, to pay to the Turnkey on Commitment 2 *s.* To the Turnkey on Commitment.

Priſoner on Commitment upon a Surrender at a Judge's Chambers, to pay to the Tipſtaff 6 *s.* 8 *d.* To the Tipſtaff on Surrender.

Priſoner on Commitment on *Habeas Corpus*, at a Judge's Chambers, to the Tipſtaff 4 *s.* 2 *d.* To Tipſtaff on Commitment on *Habeas Corpus.*

On Commitment in Court, to the Tipſtaff 7 *s.* 6 *d.* Commitment in Court.

No other Fees for any Priſoner for the Uſe of Chamber, Bed, and Bedding, or Sheets, or upon Commitment or Diſcharge of any Priſoner in any Civil Action, nor any Commitment Fee to be taken for any Priſoner intitled to partake of the Poor's Box, nor any Chamber-Rent No other Fees.

Common Pleas. Rent to be taken of any Prisoner on the common Side.

Procedendo. Vide **Habeas Corpus.**

Qui tam. Vide **Posteas II.**

Recipiatur.

Vide **Record of Nisi prius.**

Notice in Hill. 8 Geo. 1. Of entring Recipiatur.

I. NO *Recipiaturs* shall be allowed to be entred for the Sittings of *Nisi prius* after every Term, unless the Records of *Nisi prius* and Writs be made up and brought into Court on or before the Days and Sittings respectively.

Recognizance. Vide **Bail XIV, XXIV.**

Record of Nisi prius.

Vide **Recipiatur. Trials.**

Mic. 1654. When Issue to be brought to the Clerk of the Treasury for Record to be made up.

I. ALL Issues to be tried by *Nisi prius* in *London* or *Middlesex*, upon a Record of a precedent Term, the

Copy of the Issue to be brought to the Clerk of the Treasury, for the Ingrossing the Record, four Days at least before the Day of Trial of such Issue. *Common Pleas.*

II. NO Record of *Nisi prius* to be signed before the Issue be entred upon the Roll. *Or an Incipitur according to modern Practice.* *Same Rule.* When to be signed.

III. THE Prothonotaries to take Care that every Record of *Nisi prius* that is signed by them be ingrossed in a fair legible Character, and so entred on the Roll, and every Pleading to begin with a new Line, and the first Word thereof in a greater Character than the rest. And in all Actions that have divers *Narrs* to be figured in the Margent of such Record; Or the Prothonotary not to sign the same. And the Clerks of the Treasury that ingross Records of *Nisi prius* to take the same Care of all Records made out of the Treasury. And the Records to be of the same Breadth as the Rolls. *Trin. 29 Car. 2.* How to be ingrossed.

IV. ALL Records of *Nisi prius* for Trials at the Assizes shall be signed by the Prothonotary, and signed and sealed by the Clerk of the Treasury, within three Weeks after the End of every *Hillary* and *Trinity* Terms, and not afterwards, except for reasonable Cause a special Warrant for the same be obtained. *Trin. 29 Car. 2.* When signed and sealed for Trial at the Assizes.

V. THE Clerk of the Treasury shall not sign or seal any Record of *Nisi prius* unless first signed or stamped by the Clerk of *Hill. 2 & 3 Jac. 2.* Warrants to be filed before Record signed.

Common Pleas. of the Warrants, that it may appear the Warrants of Attorney are filed.

Same Rule. VI. AND the Clerk of the Warrants to attend the Treaſury where the Records of *Niſi prius* are ſealed, three Weeks after every iſſuable Term, or ſo long as Records are ſealed without a Judge's Warrant, there to receive and take the ſaid Warrants of Attorney.

Recoveries.

Vide Attornies XVIII. Rolls XIV.

Mic. 1654. Of ſigning Exemplification by the Prothonotory before it be ſealed.

And When to be ſigned by the Clerk of the Treaſury.

I. NO Exemplification of any common Recovery or other Record which ought to be examined and ſigned by the Prothonotary, to be ſealed before the ſame have been ſigned by the Prothonotary. NOR any Exemplification (excepting Exemplifications of Fines and Common Recoveries of the preſent or precedent Term) to be ſealed before they be firſt ſigned and examined by the Clerk of the Treaſury.

Per *Notice in the Offices. Trin.* 10 *Geo.* 2. *Præcipe's* to be entred on Remembrance.

II. ALL *Præcipe's* for Recoveries to be entered in the Office on the Remembrance of each reſpective Prothonotary to whom they belong, and from henceforth no Remembrances will be lent out for that Purpoſe.

Mic. 29 *Car.* 2. Of filing Writs and Warrants of Attorney on paſſing Recoveries.

III. *THROUGH the Complaints that have been made of Neglects in filing Writs and Warrants of Attorney whereupon Common*

mon Recoveries have been ſuffered, and of the Miſchiefs that have thereupon happened; it is ordered, that BY Conſent of the *Cuſtos Brevium, Prothonotaries,* and *Clerk of the Warrants,* the Prothonotaries at all Times hereafter when they examine and ſign the Exemplifications of ſuch Recoveries, to cauſe all the ſaid Writs (being ſealed and returned) and all Warrants of Attorney thereupon taken without Writ, to be left in their Hands with the uſual Fees for Filing the ſame, without *poſt Terminums.* And the *Cuſtos Brevium* and *Clerk of the Warrants,* or their known Deputies, ſhall receive from the Prothonotaries in their Offices, the ſaid Writs and Warrants of Attorney, with the ſaid Fees for Filing thereof, in the ſecond Term next after the ſaid Writs and Warrants are proſecuted and perfected. And on receiving them they ſhall give Receipts under their Hands to the ſaid Prothonotaries by Way of Duplicate, containing the County where the Lands lie, the Names of the Demandants, Tenants, and Vouchees, who come in by Writs of Summons, and alſo of the Attornies, and Clerks names, who proſecuted the ſaid Recoveries. *Common Pleas.*

IV. (*After reciting the above Rule, and the Complaint of the Attorney General of his being defrauded of his Fee for ſigning Writs of Entry,*) *Ordered that,* THE Prothonotaries, for the Future, upon the Examination and ſigning Recoveries, ſhall *Eaſter* 30 *Car.* 2. Attorney General's Hand.

Common Pleas. take Care that every ſuch Writ of Entry be ſigned by the Attorney General, otherwiſe the ſaid Prothonotaries not to ſign ſuch Exemplification. And the ſaid Attorney General having the aforeſaid Writs to him delivered, is deſired to ſign them without Delay. *And afterwards ordered to the ſame Purpoſe with this Addition, that,*

Paſ. 34 *Car.* 2. V. NO Prothonotary ſhall receive ſuch Writs to be filed, unleſs ſigned by the ſaid Attorney General.

Reddidit ſe. Vide **Bail** XXIV. **Outlawries** III.

Relicta verificatione. Vide **Judgments** IX.

Retainer. Vide **Appearance** III, IV, VI. **Attornies** XXIV.

Retraxit. Vide **Outlawries** III.

Returns of Writs.

Vide **Outlawries** III.

Mic. 1654. Sheriff's Deputy to return Writs. I. EVERY Sheriff to have his Deputy in Court to return Writs.

Same Term. Of Delays of Returning, &c. Writs. II. IF it ſhall appear that Sheriffs, Under-Sheriffs, Bailiffs of Liberties, and their Deputies, and other Bailiffs of Sheriffs,

riffs, &c. ſhall wilfully Delay the Execution or Return of any Proceſs or Execution, or ſhall take or require any undue Fees for the ſame, or ſhall give Notice to the Defendant, thereby to fruſtrate the Execution of any Proceſs or Writ, or having levied Money, ſhall detain it in their Hands after the Time of the Return of their Writs, beſides the ordinary Courſe of Amerciaments (the Contempt or Miſdemeanor appearing) an Attachment, Information, Commitment, or Fine to be, as the Caſe requireth. And this as well in the Caſe of a late Sheriff, or Perſon before-mentioned, as of them at preſent in Office; and Sheriffs taking immoderate and exceſſive Fees for Execution of Writs of Poſſeſſion, or Reſtitution of Poſſeſſion, to be puniſhed according to Law on Complaint thereof made. *And by a later Rule it is ordered that,* *Common Pleas.*

III. IF any Sheriff, Under-Sheriff, or any Officers or Perſons having the Return of any Proceſs iſſuing out of this Court, or of any Precept or Warrant thereupon, ſhall neglect or refuſe to return the ſame within ſix Days next after Service of a Rule of this Court for that Purpoſe, ſuch Officers or Perſons ſhall be liable to pay the Coſts occaſioned by ſuch Neglect, to be taxed. *Hill.* 8 *Geo.* 1.

Rolls.

Vide Iſſues. Judgments VIII, &c.

Paſ. 34 *Car.* 2. Clerk of the Eſſoins to deliver the Rolls to the Prothonotaries.

I. THE Clerk of the Eſſoins for the Future ſhall not preſume to deliver any Poſt-Rolls, or other Rolls to any Attorney or Clerk of this Court, but to the reſpective Prothonotaries, and other Officers of this Court that have a Right to ſuch Rolls. *But Poſt-Rolls are now delivered to Attornies, and they pay* 4 s. *for each Roll, to the Clerk of the Eſſoins.*

Mic. 1654. To what Attornies or Clerks the Prothonotary is to deliver them to be entred.

II. NO Rolls to be delivered to be entred but only to Clerks or ſuch Attornies as have entred for the Space of four Years laſt paſt for themſelves. *But afterwards ordered that,*

Paſ. 34 *Car.* 2.

III. THE Prothonotaries ſhall not deliver any Rolls but to the proper Hands of ſome known Attorney or Clerk of their reſpective Offices.

Mic. 1654. Not to be delivered to Defaulters in not bringing in the Rolls.

IV. AND no Rolls to be delivered to Perſons offending the ſecond Time in not bringing in the Rolls without a ſpecial Order. *And likewiſe afterwards ordered that,*

Paſ. 34 *Car.* 2.

V. NONE of the Prothonotaries ſhall hereafter deliver any Roll to any Attorney or Clerk who appears to be a Defaulter in not bringing back his Rolls in due Time, until they have brought in

Until, &c.

ſuch

ſuch Rolls as they have delivered to them; and that it may appear in whoſe Cuſtody all Rolls are, every Attorney or Clerk that ſhall receive any Roll, either Plea or Common, ſhall ſet his own Hand to the Prothonotary's Book for the Receipt of the ſame. *Common Pleas.*

VI. NO Roll to be carried into the Country, under Pain that the Offender be excluded from entring any more Rolls afterwards as a Clerk. *And afterwards further ordered that,* *Mic.* 1654. Rolls not to be carried into the Country.

VII. IF any Attorney or Clerk carry any Rolls of this Court into the Country, this Court will Cauſe all the Penalties to be inflicted on them, and upon Notice of ſuch Offenders the Court will further proceed againſt them as Contemners of the Rules of this Court. *Paſ.* 34 *Car.* 2.

VIII. ALL Iſſues to be entred of the Term they are joined, and not of any other ſubſequent Term, and the Prothonotaries of this Court not to give Licence for the Entry of any ſuch Iſſues, nor the Clerk of the Eſſoins to deliver out any Poſt-Rolls for the doing thereof, nor the Clerk of the Treaſury to permit any ſuch Iſſues to be entred in the Treaſury upon any Account whatſoever. And the Prothonotaries ſhall not ſign any Records of *Niſi prius* until the ſame, or an *Incipitur* thereof be fairly entred on Record, and the Fees firſt paid for the Entry thereof. *Paſ.* 5 *W. & M.* Entring Iſſues.

Common Pleas.

Mic. 1654. When to be brought back to the Prothonotary.

IX. THE common Rolls of every Term (except *Easter*) to be brought to the Prothonotary fairly entred, and docketted at leaſt ten Days before the Eſſoin-Day of the ſucceeding Term, under Pain of 10*s.* for every Roll wanting.

Same Rule.

X. AND the Rolls of *Easter* Term, to be brought to the Prothonotary on or before the 1ſt Day of *Trinity* Term. *But* * *afterwards the Time of bringing the Rolls to the Prothonotary's Office was altered, but by the next (the lateſt) Rule in that Reſpect, it is ordered that,*

* *Trin.* 29 *Car.* 2.

Paſ. 34 *Car.* 2. The Rolls of *Easter* Term.

XI. EVERY Attorney and Clerk of this Court, that ſhall receive any Roll, Plea or Common, of any *Easter* Term for the Future ſhall bring the ſame to the Office from whence he received it, at or before the firſt Day of the next *Trinity* Term, and the Rolls received of *Trinity* Term, at or before the Feaſt-Day of St. *Michael* the Archangel, and the Rolls received of *Michaelmas* Term, at or before the ſixth Day of *January*, and the Rolls received of *Hillary* Term, four Days before the Feaſt-Day of *Easter*.

Trinity Term.

Michaelmas Term.

Hillary Term.

Mich. 1654. The Prothonotary to deliver the Rolls to the Clerk of the Warrants.

XII. THE Rolls brought to the Prothonotaries (*except thoſe of* Eaſter *Term*) to be delivered over to the Clerk of the Warrants the Day before the Eſſoin-Day of the enſuing Term, together with a Note of the Rolls that are wanting, the ſame Note to be ſubſcribed by the Clerk of the Warrants, and re-delivered to the

Pro-

Prothonotary. And the Rolls of *Eaſter* Term to be delivered to the Clerk of the Warrants within ſix Days. *Common Pleas.*

XIII. THE Clerk of the Warrants within five Days after he receives the Rolls from the Prothonotary, to deliver over the common Rolls to the Clerk of the Eſſoins taking the like Note from the Clerk of the Eſſoins of the Rolls wanting. *But afterwards, as to Rolls being delivered to the Clerk of the Eſſoins, ordered that,* *Same Rule.* The Clerk of the Warrants to deliver them to the Clerk of the Eſſoins.

XIV. THE ſeveral and reſpective Officers of this Court ſhall deliver in all their Rolls of *Trinity*, *Michaelmas*, and *Hillary* Terms to the Clerk of the Eſſoins before the Eſſoin-Day of the ſeveral Terms following, and their Rolls of *Eaſter* Term on or before the firſt Day of *Trinity* Term following; and that Officer that ſhall not bring or ſend in all his Rolls of the ſaid ſeveral Terms at the Times aforeſaid, ſhall pay to the Clerk of the Eſſoins for every Roll brought in after, 12 *d.* AND the Plea-Rolls of every Term ſhall be brought in, to the Clerk of the Eſſoins within three Weeks after the End of the Term following; and in Default thereof there ſhall be likewiſe paid to the Clerk of the Eſſoins for every Plea-Roll brought in after, 12 *d.* *Paſ.* 5 *W. & M.* Of bringing the Plea-Rolls to the Clerk of the Eſſoins.

XV. THE Clerk of the Eſſoins to bind up the Rolls, *viz.* the firſt Part before the Appearance-Day of the ſecond Return, the ſecond Part before the Eſſoin- *Mic.* 1654. The Clerk of the Eſſoins to bind up the Rolls.

Common Pleas. ſoin-Day of the third Return, and the third Part on the Eſſoin-Day of the next Term.

The Rolls of *Eaſter* Term to be bound up before the Eſſoin-Day of *Michaelmas* Term.

Mic. 1654. Paſ. 34 Car. 2. *In theſe Terms Rules were made that the Prothonotaries ſhould give the Court an Account of what Rolls were wanting, but by the next Rule the Clerk of the Eſſoins is to do it.*

Mic. 2 Geo. 1. XVI. (*AFTER reciting the Time for the Rolls being delivered to the Clerk of the Eſſoins, as before* XIV. *and of the Carets being delivered to him by the Prothonotaries*), *It is ordered that,* THE Clerk of the Eſſoins do a Fortnight within every Term, lay before the Court an Account of what Rolls are wanting that ought to have been brought in, together with the Attornies Names who took them out of the Offices, that the Court may proceed againſt them.

Mic. 1654. Of Acceſs to the Rolls. XVII. A TABLE to be ſet up of the Names of the Officers and Clerks that are to be admitted to the Rolls of the Treaſury; and ſuch and no other to be admitted thereto, and they may reſort there as well for their Occaſions as for learning Inſtructions, during the Term, and twice a Week for a Month after Term, and every ſuch Clerk duly to attend as well the Prothonotary's Office in Term-time as for the entring of Judgments

ments upon Summons given by the Prothonotary. *Common Pleas.*

Rules.

Vide Bringing in the Body. Habeas Corpus XVIII. Judgments I. Motions. Priſoners II. Returns of Writs III.

I. RULES to plead to be only given in the Bills of Pleas, or other Remembrances for that Purpoſe, only to be in the Cuſtody of the Secondary of the reſpective Prothonotaries, during the Time limited for giving Rules, to the Intent that all Perſons concerned may have recourſe to the ſaid Secondary, and to ſee the ſame *Gratis*; and the Clerks who uſually enter for Attornies, may give Rules for Anſwer in the ſaid Remembrances in all their own Cauſes wherein there have been Imparlances, except in Ejectments, ſo as they enter the ſame Rules in the Office without carrying any of the ſaid Remembrances out of any of the ſaid Offices; and the Secondary to ſet down upon the Remembrances the Day wherein ſuch Rules are given, and no Rules to declare or Anſwer to be given after three Days excluſive after the End of any Term, and ſuch Rule to be out at four Days, incluſive of the Day wherein the ſame is given. *Mic.* 1654. How and when Rules to declare and plead are to be given.

Scire

Scire facias.

Vide Bail XXIV.

Per *Notice in the Offices. Trin.* 10 *Geo.* 2.

I. ALL Writs of *Scire facias*, to be entred in the Office on the Remembrance of each reſpective Prothonotary to whom they belong, and henceforth no Remembrance will be lent out for that Purpoſe.

Secondaries. Vide Affidavits I, II.

Sheriffs.

Vide Attornies XIV. Bail-Bonds. Outlawries II, III, VI, &c. Returns of Writs. Warrants.

Hill. 14 & 15 *Car.* 2. *Hill.* 15 & 16 *Car.* 2. *Trin.* 1 *Jac.* 2. To have Deputies.

I. EVERY Sheriff ſhall make, and cauſe to be entred on Record a ſufficient Deputy, to receive all manner of Writs and Proceſs, under the Penalties of the Stat. 23 *Hen.* 6. And the ſaid Sheriffs or their Deputies ſhall perſonally attend in *Weſtminſter-Hall* daily in Term-time, that they may with more Convenience diſpatch the Services which appertain to their Offices. *And*,

And to attend the Court.

II. EVERY

II. EVERY Deputy-Sheriff yearly before *Hillary* Term to have his Name and Place of Reſidence in *London* or *Middleſex*, ſet and continued up in Tables in the Office of the Clerk of the Warrants. *Common Pleas.* *Mic.* 1654. Table of Deputy Sheriffs.

Special Verdicts. Vide **Verdicts (ſpecial).**

Superſedeas. Vide **Bail** I. **Error** II. **Habeas Corpus** XXII. **Outlawries. Priſoners.**

Surrender. Vide **Bail** XXIV. **Priſoners** XI.

Trials.

Vide **Notices. Poſteas. Recipiatur. Record of Niſi prius.**

I. ALL Cauſes to be tried in *London* or *Middleſex*, to be entred in the Marſhal's Book four Days before the Trial. *But afterwards by Order of the Lord Chief Juſtice.* *Mic.* 1654. Entring Cauſe for Trial at the Sittings.

II. ALL Attornies that ſhall have any Cauſes to be tried at *Guildhall*, *London*, or at *Weſtminſter-Hall*, ſhall enter the ſame in the Marſhal's Book, two Days at leaſt excluſive before the Day of Trial, or a *Ne recipiatur* may be entred. *Paſ.* 1 *Jac.* 2.

III. *RULES*

Common Pleas. Hill. 9 Ann. For Trial at Bar.

III. *RULES for Trials at Bar being uſually granted one or more Terms before ſuch Trials are appointed to be had; and the* Habeas Corpora *are made out upon* Venire's *returnable in the preceding Term, ſo that Attornies for Plaintiffs have always Opportunity of giving timely Notice to this Court of the Days when ſuch Trials are to come on; therefore,* THE Attorney for the Plaintiff in every Cauſe which in ſuch Caſe ſhall come to be tried at the Bar of this Court, ſhall before the Eſſoin-Day of the Term, in which ſuch Cauſe ſhall be appointed to be tried, give Notice to the chief Prothonotary, or his Secondary, of the Day on which ſuch Cauſe is to be tried, that the ſame may be put down in the Court-Book. And in Caſe ſuch Attorney neglect ſo to do, then without Motion and the ſpecial Direction of this Court, ſuch Cauſes ſhall not be tried that Term.

Mic. 3 *Geo.* 2. Copies of Iſſue to be delivered to the Judges before Trial at Bar.

IV. IN all Cauſes which ſhall be tried at the Bar of this Court, the Lord Chief Juſtice, and the Reſt of the Juſtices of the ſaid Court, ſhall reſpectively have Copies of the Iſſues in the ſaid Cauſes delivered to them four Days before the Time appointed for Trial.

Mic. 1654. Allowance after a private Verdict.

V. *FOR the Remedy of exceſſive Charges of Trials at Bar, eſpecially whilſt the Jury lieth out, ordered that,* A JURY lying out one Night after a privy Verdict delivered, there ſhall be allowed for the whole Diet of each Jury-man that

Night, no more than 3 *s.* and 4 *d.* a-piece, and for two Criers to each of them no more than 2 *s.* ordinary, beſides the Charge of the Jurors Lodging. AND after a Verdict delivered in Court, the Jury and Officers to be paid their Charges and Fees in the inner Treaſury, without going to Taverns or Victualling-Houſes. *Commun Pleas.* Fees, &c. after Verdict in Court.

VI. WHERE a Verdict finds intire Damages where Damages are the Principal, and Part not actionable, tho' Judgment be arreſted, yet by Rule of Court a *Venire facias de novo* may iſſue as upon an ill Verdict, and upon the new Trial the Party may ſever his Damages. *Mic.* 1654. Of new Trial.

VII. IN every Cauſe to be tried in the reſpective Circuits, the Writ and Record ſhall be entred together; and no Record ſhall be received without the Writ. *Trin.* 10 & 11 *Geo.* 2. Entring Record and *Habeas Corpora.*

Venire facias. Vide Trials.

Venue.

Vide Appearance V. Habeas Corpus XXI.

I. ACTIONS upon the Caſe, Treſpaſs for Goods, Aſſault or Impriſonment ariſing in any *Engliſh* County, to be laid in their proper Counties, unleſs they ariſe where Juſtices of *Niſi prius* ſeldom *Mic.* 1654. Where laid.

Common Pleas. ſeldom come. And becauſe Treſpaſs or Trover for Goods, Battery, Impriſonment and Slander, muſt needs be notorious in what County they ariſe; the Attorney knowingly laying them out of the proper County (unleſs in the Caſes before expreſſed, or for ſuch other Cauſes as ſhall be allowed by a Judge of the Court, and duly made appear to be true) to be ſeverely puniſhed.

Same Rule. Of changing it.

II. ALTHO' the Declaration be delivered ſeven Days before the laſt Day of the next precedent Term, or after, yet before Plea, upon Oath made, the *Viſne* may be changed upon Motion in the ſaid tranſitory Actions the next Term after, and the Defendant to plead to the new Action, as he ſhould have done in the other without Delay.

Same Rule.

III. THE *Viſne* may be changed (upon Oath) as before, tho' the Defendant come in by *Exigent*.

Paſ.24 Car.2.

IV. NO Defendant ſhall be permitted to move to change the *Venue* in any Action, 'till his Appearance be entred.

Verdicts (ſpecial).

Vide Demurrers. Judgments IX. Trials.

Mic. 1654. Of finding ſpecial Verdicts.

I. IN finding ſpecial Verdicts where the Points are ſingle and not complicated, and no ſpecial Concluſion, the

Counſel (if required) to ſubſcribe the Points in Queſtion, and agree to amend Omiſſions or Miſtakes in the *meſne* Conveyance, according to the Truth, and to bring the Point in Queſtion to Judgment. *Gennings Pleas.*

II. UNNECESSARY finding of Deeds *in hæc verba*, where the Queſtion reſts not upon them, but are only Derivation of Title to be ſpared; and found ſhortly according to the Subſtance they bear in Reference to the Deed, as Feoffment, Leaſe, Grant, *&c.* *Same Rule.*

III. NO Cauſe in any Term to be put in the Book of this Court, to be argued after the laſt Day of Arguments, unleſs the Court here be thereupon moved, and ſhall order it. *Trin. 12 Geo. 1.* Entring Cauſes to be argued.

Warden of the Fleet. Vide Priſoners.

Warrants.

Vide Appearances III, VI. Attachment of Privilege I. Bail-Bonds I. Judgments VI. Outlawries I. Record of Nisi prius, V, &c. Recoveries: Returns of Writs.

Of Sheriffs.

Mic. 1654. *Hill.* 14 & 15 *Car.* 2. *Trin.* 1 *Jac.* 2. No blank Warrants before Writ iſſued.

I. NO Sheriff or Deputy ſhall deliver any blank Warrants before the Writ be duly ſued forth and delivered to the ſaid Sheriff or Deputy: Nor ſhall any Clerk or Attorney of this Court receive or procure to be made any ſuch Warrants, upon Pain of ſevere Puniſhment and Fine to be impoſed on the ſaid Sheriffs and Deputies, and utter Expulſion of the Clerks or Attornies offending in the Premiſſes.

Of Attorney.

Mic. 1654. Warrants to appear or confeſs Judgment.

II. THE Principal in any Bond or Bill obligatory for the Time to come not to give a Warrant to appear for, or confeſs Judgment againſt his Surety; and no Judgment be confeſſed for, or given againſt the Surety upon any ſuch Warrant given by the Principal.

III. EVE-

III. EVERY Attorney to file his Warrant of Attorney of the Term wherein any *Exigent* is awarded, Demurrer or Iſſue joined or Judgment entred, or which of them ſhall firſt happen upon Pain of 40 *s.* for every Time he offendeth, ſuch Warrant to be filed upon or before the Eſſoin-Day of every *Trinity* Term, and within the Space of twenty-one Days next after the End of every other Term. *But by the next Rule,*

Common Pleas. Hill. 14 & 15 *Car.* 2. *Paſ.* 1 *Jac.* 2. Filing Warrants of Attorney.

IV. THE Plaintiff upon Delivery of the Copy of an (*a*) Iſſue, ſhall receive of the Defendant's Attorney, the Fee for filing his Warrant therein, if the Defendant's Attorney refuſe to pay him for it, the Plaintiff's Attorney ſhall ſign Judgment in like Caſe, as if the Defendant's Attorney had refuſed to pay for the Copy of the Iſſue or Entry of his Plea, which ſaid Plaintiff's Attorney ſhall file as well the Defendant's as the Plaintiff's Warrant of Attorney before the making up his Record therein.

Hill. 2 & 3 *Jac.* 2. Of paying for Warrants of Attorney.

(*a*) *'Tis the Practice now for the Defendant to pay for filing his Warrant on receiving the Declaration.*

Writs.

Vide Attachment of Privilege. Bail I. Certiorari I. Error. Fines. Habeas Corpus. Original. Recoveries. Scire facias.

I. ALL Executions, and all other Writs iſſuing out of the Prothonotaries

Mic. 1654. To be ſigned before ſealed.

Common Pleas. notaries Offices, be duly ſigned by the reſpective Prothonotaries before the ſame be ſealed.

Per *Notice Hill.* 7 *Geo.* 2. Of Notice to appear.

II. IN Notices to appear to be ſerved upon Defendants with Copies of Proceſs, purſuant to the late * Act of Parliament the Day of the Return of ſuch Proceſs muſt be inſerted, altho' it happens to be upon a *Sunday*.

Stat. 5 *Geo.* 2. c. 27.

The following Rule ſhould have been placed under Title **Poſtea.**

Trin. 13 *Geo.* 2.

ORDERED, That after final Judgment has been ſigned upon *Poſteas* and Inquiſitions, they ſhall be immediately delivered to the Clerk of the Judgments of the reſpective Prothonotaries, and ſhall not afterwards be taken out of the Office without Leave of Court.

ERRATA.

Page 23. *Line* 13. *for* than *read* then. *p.* 34. *l.* 13. *for* If it be, *r.* It is.

A TA-

A TABLE OF THE DATES of the COMMON PLEAS Rules, and under what TITLES they are placed.

Michaelmas Term, 1654.

Appearances.	Sect. I to III.
Attornies	I.
——	VII to X.
——	XIV to XVI.
——	XVIII, XX.
——	XXII to XXIV.
Bail	I to VII, XXIV.
Bail-Bonds	I.
Clerks	I.
Declarations	I to IX.
Demurrers	I, II.
Habeas Corpus	I to XXI, XXIV.
Imparlances	II to VI.
Judgments	I to V, VII, XI.

Michaelmas Term, 1654.	Bale-practice Sect. I, II.
	Non pros' I to IV, VII.
	Notices I to X.
	Officers and Offices I, II.
	Outlawries II, IV, VI, XVI, XVII.
	Pleas I to V,
	Posteas I.
	Prisoners IX.
	Record of Nisi prius I, II.
	Recoveries I.
	Returns of Writs I, II.
	Rolls II, IV, VI, IX to XIII, XV, XVII.
	Rules I.
	Sheriffs II.
	Trials I, V, VI.
	Venue I to III.
	Verdicts I, II.
	Warrants I, II.
	Writs I.
Hillary Term, 13 & 14 *Car.* 2.	Habeas Corpus XIV to XIX.
Hill. 14 & 15 *Car.* 2.	Sheriffs I.
	Warrants III.
Same Term.	Attornies XIV, XVII, XIX.
Same Term.	Habeas Corpus XXII, XXIII.
	Prisoners X.
Hill. 15 & 16 *Car.* 2.	Outlawries VII.
	Sheriffs I.
Mich. 17 *Car.* 2.	Outlawries VIII, X.
Trin. 21 *Car.* 2.	Attornies XII.

Same

Same Term.	Attornies Sections XIII, XXV.
	Imparlances VII.
Paſ. 24 *Car.* 2.	Outlawries III, XV.
	Appearances IV, V.
	Declarations X.
Same Term.	Imparlances I.
	Pleas XII.
	Venue IV.
Paſ. 27 *Car.* 2.	Demurrers III.
Trin. 28 *Car.* 2.	Error I.
Mich. 28 *Car.* 2.	Error II, V.
Hill. 28 & 29 *Car.* 2.	Fines III.
Paſ. 29 *Car.* 2.	Fines V.
Trin. 29 *Car.* 2.	Attornies I.
Same Term.	Record of Niſi prius III.
Same Term.	Attachment of Priviledge I.
Same Term.	Record of Niſi prius IV.
Same Term.	Judgments VIII to X.
Mic. 29 *Car.* 2.	Recoveries III.
Paſ. 30 *Car.* 2.	Recoveries IV.
Mic. 30 *Car.* 2.	Original I.
Trin. 32 *Car.* 2.	Ejectment I.
Trin. 33 *Car.* 2.	Outlawries XII.
Paſ. 34 *Car.* 2.	Poſteas II.
Same Term.	Recoveries V.
Same Term.	Rolls I, III, V, VII, XI.
Mic. 36 *Car.* 2.	Attornies I, &c.
	Attornies XIV, XVII, XIX.
Paſ. 1 *Jac.* 2.	Warrants III.
Same Term.	Trials II.
Trin. 1 *Jac.* 2.	Sheriffs I.
Paſ. 2 *Jac.* 2.	Poſteas III.

Trin. 2 *Jac.* 2.	Outlawries Sect. VIII. to X, XIII.
Hil. 2 & 3 *Jac.* 2.	Outlawries I. Record of Nisi prius V, VI. Warrants IV.
Monday, 13 *Maii*, 1689.	Outlawries XIV.
Trin. 1 *Gul.* & *Mariæ.*	Bail X.
Trin. 2 *Gul.* & *Mariæ.*	Bringing in the Body I.
Same Term.	Affidavits I.
Paſ. 5 *Gul.* & *Mariæ.*	Bail XIV to XX.
Same Term.	Rolls VIII.
Same Term.	Rolls XIV.
Same Term.	Priſoners I to VII.
Paſ. 6 *Gul.* & *Mar.*	Fines III.
Trin. 9 *Will.* 3.	Attachment of Priviledge II.
Paſ. 13 *Will.* 3.	Certiorari I.
Mic. 4 *Annæ.*	Attornies I to VI.
Eaſter, 9 *Annæ.*	Fines II.
Hill. 9 *Annæ.*	Trials III.
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Same Term.	Non pros' V.
Same Term.	Bail-Bonds II.
Mic. 2 *Geo.* 1. 1715.	Rolls XVI.
Trin. 2 *Geo.* 1. 1716.	Notices XI.
Mic. 3 *Geo.* 1. 1716.	Notices XIV.
Hill. 6 *Geo.* 1. 1719.	Notices XII.
Same Term.	Appearances VI. Bail XXI.
Hill. 8 *Geo.* 1. 1721.	Returns of Writs III.
Notice ſame Term.	Recipiatur I.
Eaſter, 8 *Geo.* 1. 1722.	Priſoners XI, XII.
Trin. 10 *Geo.* 1. 1724.	Notices XIII.
Hill. 11 *Geo.* 1. 1724.	Iſſues I.

Mic. 12 *Geo.* 1. 1725. { Error Sect. III. / Outlawries V.

Trin. 12 *Geo.* 1. 1726. { Demurrers V. / Verdicts III.

Mic. 13 *Geo.* 1. 1726. Bail XII.

Hill. 13 *Geo.* 1. 1726. Fines I.

Easter and *Trinity*, 13 *Geo.* 1. 1727. { Prisoners XLV.

Mic. 1 *Geo.* 2. 1727. { Declarations XII. / Pleas VI, X.

A Notice of the same Term. { Declarations XVI. / Dyer I. / Pleas IX.

Ditto Mic. 2 *Geo.* 2. 1728. Motions I.

Ditto same Term. Attornies XI.

Hill. 2 *Geo.* 2. 1728. Ejectment II.

Mic. 3 *Geo.* 2. 1729. Trials IV.

Same Term. { Declarations XIII. / Pleas VII.

Jan. 19. 3 *Geo.* 2. 1729. Prisoners XLV.

Hill. 3 *Geo.* 2. 1729. Prisoners XIV to XLIV.

Easter, 3 *Geo.* 2. 1729. { Declarations XIV. / Pleas VIII.

Trin. 3 & 4 *Geo.* 2. 1730. Bail XIII.

Mic. 5 *Geo.* 2. 1731. Judgments VI.

Mic. 6 *Geo.* 2. 1732. Bail XXIII.

Same Term. Bail XII.

Same Term. Demurrers IV.

Same Term. Judgments XII.

Same Term. { Attornies XXI. / Bail VIII.

Same Term. Error IV.

Same Term. Bail IX.

Notice, *Hill.* 7 *Geo.* 2. 1733. { Writs II.

Hill.

A Table of the Dates, &c.

Hill. 8 *Geo.* 2. 1734.	Priſoners Sect. VIII.
Same Term.	Priſoners XIII.
Notice ſame Term.	Bail XI.
Eaſter, 10 *Geo.* 2. 1736.	Declarations XV. Notices XV. Pleas XI.
Notice, *Trin.* 10 *Geo.* 2. 1736.	Recoveries II. Scire facias I.
Trin. 10 & 11 *Geo.* 2. 1737.	Trials VII.
Hill. 11 *Geo.* 2. 1737.	Affidavits II.
Same Term.	Attachment of Privilege III.
Same Term.	Attornies XXVI.
Trin. 13 *Geo.* 2. 1739.	Poſteas and Inquiries. Page 118.

FINIS.

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